

Electronically Filed
Feb 02 2021 10:28 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 **NOAS**
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LAW OFFICES OF
5 MICHAEL F. BOHN, ESQ., LTD.
2260 Corporate Circle, Suite 480
6 Henderson, Nevada 89074
(702) 642-3113/ (702) 642-9766 FAX

7 Attorney for plaintiff

8
9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 5316 CLOVER BLOSSOM CT TRUST

12 Plaintiff,

13 vs.

14 U.S. BANK, NATIONAL ASSOCIATION,
15 SUCCESSOR TRUSTEE TO BANK OF
AMERICA, N.A., SUCCESSOR BY MERGER
16 TO LASALLE BANK, N.A., AS TRUSTEE TO
THE HOLDERS OF THE ZUNI MORTGAGE
17 LOAN TRUST 2006-OA1, MORTGAGE
LOAN PASS-THROUGH CERTIFICATES
18 SERIES 2006-OA1; and CLEAR RECON
CORPS

19 Defendants.

CASE NO.: A-14-704412-C
DEPT NO.: XXIV

NOTICE OF APPEAL

20
21 NOTICE IS HEREBY GIVEN that plaintiff 5316 Clover Blossom Ct Trust hereby appeals
22 to the Supreme Court of Nevada from the Judgment granted upon a motion for summary judgment, which

23 ///

24 ///

25 ///

1 was entered on December 29, 2020.

2 DATED this 28th day of January, 2021

3 LAW OFFICES OF
4 MICHAEL F. BOHN, ESQ., LTD.

5 By: /s/ /Michael F. Bohn, Esq./
6 Michael F. Bohn, Esq.
7 Adam R. Trippiedi, Esq.
8 2260 Corporate Circle, Suite 480
9 Henderson, Nevada 89074
10 Attorney for plaintiff

9 **CERTIFICATE OF SERVICE**

10 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of Law
11 Offices of Michael F. Bohn., Esq., and on the 28th day of January, 2021, an electronic copy of the
12 **NOTICE OF APPEAL** was served on opposing counsel via the Court's electronic service system to
13 the following counsel of record:

14 Melanie D. Morgan, Esq.
15 Nicolas E. Belay, Esq.
16 Akerman LLP
17 1635 Village Center Circle # 200
18 Las Vegas, NV 89134

18 /s/ /Marc Sameroff /
19 An Employee of the LAW OFFICES OF
20 MICHAEL F. BOHN, ESQ., LTD.

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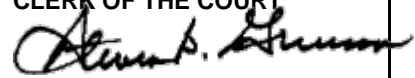
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7 Attorney for plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA
10

11 5316 CLOVER BLOSSOM CT TRUST

12 Plaintiff,

13 vs.

14 U.S. BANK, NATIONAL ASSOCIATION,
15 SUCCESSOR TRUSTEE TO BANK OF
AMERICA, N.A., SUCCESSOR BY MERGER
16 TO LASALLE BANK, N.A., AS TRUSTEE TO
THE HOLDERS OF THE ZUNI MORTGAGE
17 LOAN TRUST 2006-OA1, MORTGAGE
LOAN PASS-THROUGH CERTIFICATES
18 SERIES 2006-OA1; and CLEAR RECON
CORPS

19 Defendants.
20

CASE NO.: A-14-704412-C
DEPT NO.: XXIV

CASE APPEAL STATEMENT

- 21 1. The appellant filing this case appeal statement is 5316 Clover Blossom Ct Trust.
22 2. The judge issuing the judgment appealed from is the honorable James Crockett.
23 3. The parties to the proceedings in District Court are 5316 Clover Blossom Ct Trust, plaintiff;
24 U.S. Bank, National Association, Successor Trustee to Bank of America, N.A., Successor by Merger to
25 Lasalle Bank, N.A., as Trustee to the Holders of the Zuni Mortgage Loan Trust 2006-OA1, Mortgage
26 Loan Pass-through Certificates Series 2006-OA1; and Clear Recon Corps, defendants;
27 4. The parties to this appeal are the appellant 5316 Clover Blossom Ct Trust, and respondents
28

1 U.S. Bank, National Association, Successor Trustee to Bank of America, N.A., Successor by Merger to
2 Lasalle Bank, N.A., as Trustee to the Holders of the Zuni Mortgage Loan Trust 2006-OA1, Mortgage
3 Loan Pass-through Certificates Series 2006-OA1.

4 5. Counsel for appellant 5316 Clover Blossom Ct Trust is Michael F. Bohn, Esq.; 2260 Corporate
5 Circle, Suite 480, Henderson, NV 89074; (702) 642-3113. Counsel for respondents U.S. Bank, National
6 Association, Successor Trustee to Bank of America, N.A., Successor by Merger to Lasalle Bank, N.A.,
7 as Trustee to the Holders of the Zuni Mortgage Loan Trust 2006-OA1, Mortgage Loan Pass-through
8 Certificates Series 2006-OA1., is Melanie D. Morgan, Esq., 1635 Village Center Circle, Suite 200, Las
9 Vegas, Nevada, 89134 (702) 634-5000.

10 6. The attorneys for both the plaintiff/appellant and defendants/respondents are licensed in the
11 state of Nevada.

12 7. The appellant was represented by retained counsel in the District Court;

13 8. The appellant is represented by retained counsel on appeal;

14 9. There were no orders granting leave to proceed in forma pauperis;

15 10. The complaint was filed in District Court on July 25, 2014;

16 11. The plaintiff filed this action seeking title to the real property as a result of a foreclosure sale.

17 The district court ruled in favor of defendants after summary judgment.

18 12. The case has previously been the subject of an appeal, #65708.

19 13. The case does not involve child custody or visitation; and,

20 14. It is unlikely that this case can be settled.

21 DATED this 28th day of January, 2021

22 LAW OFFICES OF
23 MICHAEL F. BOHN, ESQ., LTD.

24 By: /s/ Michael F. Bohn, Esq./
25 Michael F. Bohn, Esq.
26 Adam R. Trippiedi, Esq.
27 2260 Corporate Circle, Suite 480
28 Henderson, Nevada 89074
Attorney for plaintiff

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of Law
3 Offices of Michael F. Bohn., Esq., and on the 28th day of January, 2021, an electronic copy of the **CASE**
4 **APPEAL STATEMENT** was served on opposing counsel via the Court's electronic service system to
5 the following counsel of record:

6 Melanie D. Morgan, Esq.
7 Nicolas E. Belay, Esq.
Akerman LLP
8 1635 Village Center Circle # 200
Las Vegas, NV 89134

9 /s/ /Marc Sameroff /
10 An Employee of the LAW OFFICES OF
11 MICHAEL F. BOHN, ESQ., LTD.
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EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-14-704412-C**

5316 Clover Blossom CT Trust, Plaintiff(s)
vs.
U S Bank National Association, Defendant(s)

§
§
§
§
§
§
§

Location: **Department 8**
 Judicial Officer: **Peterson, Jessica K.**
 Filed on: **07/25/2014**
 Case Number History:
 Cross-Reference Case Number: **A704412**
 Supreme Court No.: **68915**
75861

CASE INFORMATION**Statistical Closures**

12/29/2020 Summary Judgment
 04/13/2018 Summary Judgment
 09/24/2015 Summary Judgment

Case Type: **Other Title to Property**

Case
 Status: **12/29/2020 Closed**

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-14-704412-C
 Court Department 8
 Date Assigned 01/04/2021
 Judicial Officer Peterson, Jessica K.

PARTY INFORMATION*Lead Attorneys***Plaintiff 5316 Clover Blossom CT Trust**

Bohn, Michael F
Retained
 702-642-3113(W)

Defendant Clear Recon Corps
 Removed: 09/30/2014
 Dismissed

U S Bank National Association

Morgan, Melanie D.
Retained
 702-634-5000(W)

Counter Claimant U S Bank National Association
 Removed: 12/29/2020
 Dismissed

Morgan, Melanie D.
Retained
 702-634-5000(W)

Counter Defendant 5316 Clover Blossom CT Trust
 Removed: 12/29/2020
 Dismissed

Bohn, Michael F
Retained
 702-642-3113(W)

Cross Claimant U S Bank National Association
 Removed: 04/13/2018
 Dismissed

Morgan, Melanie D.
Retained
 702-634-5000(W)

Cross Defendant Country Garden Owners Association
 Removed: 04/13/2018
 Dismissed

Anderson, Sean L.
Retained
 702-538-9074(W)

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

07/25/2014















Complaint

Filed By: Plaintiff 5316 Clover Blossom CT Trust

Complaint












CASE SUMMARY

CASE NO. A-14-704412-C

07/25/2014	Case Opened
08/13/2014	 Affidavit of Service Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Affidavit of Service</i>
08/13/2014	 Receipt of Copy Filed by: Plaintiff 5316 Clover Blossom CT Trust <i>Receipt of Copy</i>
08/26/2014	 Affidavit of Service Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Affidavit of Service for Clear Recon Corps</i>
09/25/2014	 Initial Appearance Fee Disclosure Filed By: Defendant U S Bank National Association <i>Initial Appearance Fee Disclosure</i>
09/25/2014	 Answer Filed By: Defendant U S Bank National Association <i>Defendant U.S. Bank, National Association, Successor by Merger to LaSalle Bank, N.A., as Trustee to the Holders of the Zuni Mortgage Loan Trust 2006-OA1, Mortgage Loan Pass-Through Certificates Series 2006-OA1</i>
09/30/2014	 Stipulation and Order Filed by: Defendant Clear Recon Corps <i>Stipulation and Order for Non-Monetary Judgment Between Clear Recon Corp and 5316 Clover Blossom Ct Trust</i>
10/02/2014	 Notice of Entry of Stipulation and Order Filed By: Defendant Clear Recon Corps <i>Notice of Entry of Stipulation and Order for Non Monetary Judgment Between Clear Recon Corp and 5316 Clover Blossom Ct Trust</i>
12/17/2014	 Joint Case Conference Report Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Joint Case Conference Report</i>
12/19/2014	 Scheduling Order <i>Scheduling Order</i>
01/05/2015	Case Reassigned to Department 24 <i>District Court Case Reassignment 2015</i>
01/14/2015	 Substitution of Attorney Filed by: Defendant U S Bank National Association <i>Substitution of Attorney</i>
01/14/2015	 Order Setting Civil Bench Trial <i>Order Setting Civil Bench Trial</i>
02/09/2015	 Motion to Amend Complaint Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Motion to Amend Complaint</i>














CASE SUMMARY

CASE NO. A-14-704412-C

04/23/2015	 Amended Complaint Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Amended Complaint</i>
04/30/2015	 Certificate of Service Filed by: Plaintiff 5316 Clover Blossom CT Trust <i>Certificate of Service</i>
05/06/2015	 Order Granting Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Order Granting Motion to amend Complaint</i>
05/07/2015	 Notice of Entry Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Notice of Entry of Order</i>
05/18/2015	 Motion for Summary Judgment Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Motion for Summary Judgment</i>
05/22/2015	 Notice of Association of Counsel Filed By: Defendant U S Bank National Association <i>Notice of Appearance of Counsel on behalf of U.S. Bank National Association</i>
06/05/2015	 Substitution of Attorney Filed by: Defendant U S Bank National Association <i>Substitution of Counsel</i>
06/24/2015	 Stipulation and Order Filed by: Defendant U S Bank National Association <i>Stipulation And Order For Extension Of Time To Respond To Motion For Summary Judgment And Continue Hearing Date (First Request)</i>
06/29/2015	 Notice of Entry of Stipulation and Order Filed By: Defendant U S Bank National Association <i>Notice of Entry of Stipulation and Order for Extension of Time to Respond to Motion for Summary Judgment and Continue Hearing Date.</i>
07/21/2015	 Stipulation and Order Filed by: Defendant U S Bank National Association <i>Stipulation and Order Continuing Hearing on Plaintiff's Motion for Summary Judgment and Extending Time for U.S. Bank to Respond</i>
07/22/2015	 Opposition to Motion For Summary Judgment Filed By: Defendant U S Bank National Association <i>U.S. Bank, N.A.'s Opposition to Plaintiff's Motion for Summary Judgment and Counter-motion for Summary Judgment Based on the Due Process Clause and Tender, or Alternatively, for Rule 56(f) Relief</i>
07/24/2015	 Initial Appearance Fee Disclosure Filed By: Defendant U S Bank National Association <i>Initial Appearance Fee Disclosure for Plaintiff's Motion for Summary Judgment and Counter-motion for Summary Judgment Based on the Due Process Clause and Tender, Or Alternatively, for Rule 56(F) Relief</i>

CASE SUMMARY

CASE NO. A-14-704412-C

07/28/2015	 Notice of Entry of Order Filed By: Defendant U S Bank National Association <i>Notice Of Entry Of Stipulation and Order Continuing Hearing On Plaintiff's Motion For Summary Judgment And Extending Time For U.S. Bank To Respond</i>
07/29/2015	 Reply to Opposition Filed by: Plaintiff 5316 Clover Blossom CT Trust <i>Reply in Support of Plaintiff's Motion for Summary Judgment and Opposition to Countermotion for Summary Judgment, or Alternatively, for Rule 56(F) Relief</i>
08/13/2015	 Supplement Filed by: Plaintiff 5316 Clover Blossom CT Trust <i>Supplemental Points and Authorities in Support of Plaintiff's Motion for Summary Judgment and In Opposition to Defendant's Countermotion for Summary Judgment</i>
08/13/2015	 Reply in Support Filed By: Defendant U S Bank National Association <i>U.S. Bank, N.A.'s Supplemental Briefing in Support of Its Countermotion for Summary Judgment and Opposition to Plaintiff's Motion for Summary Judgment</i>
09/10/2015	 Notice of Entry of Judgment Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Notice of Entry of Judgment</i>
09/10/2015	 Findings of Fact, Conclusions of Law and Judgment Filed by: Plaintiff 5316 Clover Blossom CT Trust <i>(Vacated 8/3/17) Findings of Fact, Conclusions of law, and Judgment Granting Quiet Title</i>
09/23/2015	 Order to Statistically Close Case <i>Civil Order to Statistically Close Case</i>
09/28/2015	 Notice Filed By: Defendant U S Bank National Association <i>Notice of Disassociation</i>
09/28/2015	 Case Appeal Statement Filed By: Defendant U S Bank National Association <i>U.S. Bank, N.A.'S Case Appeal Statement</i>
09/28/2015	 Notice of Appeal Filed By: Defendant U S Bank National Association <i>U.S. Bank, N.A.'s Notice of Appeal</i>
07/25/2017	 Motion to Strike Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Motion to Strike Demand for Jury Trial</i>
07/31/2017	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>Nevada Supreme Court Clerk's Certificate Judgment - Vacated and Remand</i>
08/03/2017	 Order <i>Order Vacating Judgment and Setting Further Proceedings Re: The Court of Appeals Court Order Vacating Judgment and Remanding</i>

CASE SUMMARY

CASE NO. A-14-704412-C

08/11/2017	 Opposition to Motion Filed By: Defendant U S Bank National Association <i>U.S. Bank, N.A., as Trustee's Opposition to 5316 Clover Blossom Ct Trust's Motion to Strike Demand for Jury Trial</i>
08/16/2017	 Stipulation and Order Filed by: Defendant U S Bank National Association <i>Stipulation and Order Extending Discovery (First Request)</i>
08/18/2017	 Notice of Entry of Stipulation and Order Filed By: Defendant U S Bank National Association <i>Notice of Entry of Stipulation and Order Extending Discovery (First Request)</i>
08/23/2017	 Reply in Support Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Reply in Support of Motion to Strike Jury Demand</i>
09/28/2017	 Stipulation and Order Filed by: Defendant U S Bank National Association <i>Stipulation and Order to Amend Pleadings and Add Parties</i>
09/30/2017	 Notice of Entry of Stipulation and Order Filed By: Defendant U S Bank National Association <i>Notice of Entry of Stipulation and Order to Amend Pleading and Add Parties</i>
10/04/2017	 Order Granting Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Order Granting Plaintiff's motion to Strike Jury Demand</i>
10/05/2017	 Notice of Entry Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Notice of Entry of Order</i>
10/10/2017	 Answer and Counterclaim Filed By: Defendant U S Bank National Association <i>U.S. Bank, N.A., as Trustee's Answer to 5316 Clover Blossom Trust's Amended Complaint, Counterclaims, and Cross-Claims</i>
10/16/2017	 Order Setting Civil Non-Jury Trial <i>Order Setting Civil Non-Jury Trial</i>
10/19/2017	 Affidavit of Service Filed By: Defendant U S Bank National Association <i>Affidavit of Service on Country Garden Owners Association</i>
10/23/2017	 Motion to Dismiss Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>(2/7/18 Converted to Motion for Summary Judgment) Motion to Dismiss Counterclaim</i>
11/09/2017	 Opposition Filed By: Defendant U S Bank National Association <i>U.S. Bank, N.A., As Trustee s Opposition To 5316 Clover Blossom Ct Trust s Motion To Dismiss Counterclaim</i>




CASE SUMMARY

CASE NO. A-14-704412-C

11/09/2017	 Motion to Dismiss Filed By: Cross Defendant Country Garden Owners Association <i>Country Garden Owners Association s Motion To Dismiss The Crossclaims Of U.S. Bank, National Association</i>
11/09/2017	 Initial Appearance Fee Disclosure Filed By: Cross Defendant Country Garden Owners Association <i>Country Garden Owners Association s Initial Appearance Fee Disclosure</i>
11/09/2017	 Disclosure Statement Party: Cross Defendant Country Garden Owners Association <i>Country Garden Owners Association s NRCP 7.1 Disclosure Statement</i>
11/21/2017	 Reply in Support Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Plaintiff's Reply in Support of Motion to Dismiss</i>
11/22/2017	 Amended Certificate of Service Party: Plaintiff 5316 Clover Blossom CT Trust <i>Amended Certificate of Service</i>
11/27/2017	 Opposition to Motion Filed By: Defendant U S Bank National Association <i>U.S. Bank, N.A., as Trustee's Opposition to Country Garden Owners Association's Motion to Dismiss</i>
11/29/2017	 Supplemental <i>Supplemental Authority in Support of Motion to Dismiss Counterclaim</i>
12/07/2017	 Reply in Support Filed By: Cross Defendant Country Garden Owners Association <i>Country Garden Owners Association s Reply In Support Of Motion To Dismiss The Crossclaims Of U.S. Bank, National Association</i>
12/26/2017	 Notice of Change of Address Filed By: Defendant U S Bank National Association <i>Notice Of Change Of Address</i>
02/07/2018	 Findings of Fact, Conclusions of Law and Judgment <i>Findings of Fact, Conclusions of Law, and Judgment</i>
02/07/2018	 Notice Filed By: Defendant U S Bank National Association <i>Notice of Completion of NRED Mediation</i>
02/08/2018	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Notice of Entry of Findings of Fact, Conclusions of Law</i>
02/26/2018	 Motion to Reconsider Filed By: Defendant U S Bank National Association <i>U.S. Bank, N.A., as Trustee's Motion for Reconsideration Under NRCP 59</i>

CASE SUMMARY

CASE NO. A-14-704412-C

03/01/2018	 Notice of Hearing Filed By: Defendant U S Bank National Association <i>Notice of Hearing on U.S. Bank, N.A., as Trustee's Motion for Reconsideration under NRCP 59</i>
03/14/2018	 Opposition Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Plaintiff's Opposition to U.S. Bank, N.A., as Trustee's Motion for Reconsideration under NRCP 59</i>
04/13/2018	 Findings of Fact, Conclusions of Law and Judgment Filed by: Cross Defendant Country Garden Owners Association <i>Order Granting Country Garden Owners' Association's Motion to Dismiss the Crossclaims of US Bank, National Association, Findings of Fact, Conclusions of Law, and Judgment</i>
04/16/2018	 Notice of Entry of Order <i>Notice Of Entry Of Order Granting Country Garden Owners Association's Motion To Dismiss The Crossclaims Of U.S. Bank, National Association, Findings Of Fact, Conclusions Of Law, And Judgment</i>
05/01/2018	 Order Denying <i>Order Denying U.S. Bank, N.A., as Trustee's motion for Reconsideration under NRCP 59</i>
05/01/2018	 Notice of Change of Address Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Notice of Change of Address</i>
05/01/2018	 Notice of Entry <i>Notice of Entry of Order</i>
05/10/2018	 Notice of Change of Address <i>Amended Notice of Change of Address</i>
05/10/2018	 Notice of Appeal Filed By: Defendant U S Bank National Association <i>Defendant U.S. Bank, N.A., as Trustee's Notice of Appeal</i>
05/10/2018	 Case Appeal Statement Filed By: Defendant U S Bank National Association <i>Defendant US Bank, N.A., as Trustee's Case Appeal Statement</i>
05/15/2018	 Notice of Posting Bond Filed By: Defendant U S Bank National Association <i>Notice of Posting of Appeal Bond</i>
12/04/2018	 Substitution of Attorney Filed by: Plaintiff 5316 Clover Blossom CT Trust <i>Substitution of Attorney</i>
11/15/2019	 NV Supreme Court Clerks Certificate/Judgment - Affd/Rev Part <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed in Part, Reversed in Part and Remand</i>
11/18/2019	 Order

CASE SUMMARY

CASE NO. A-14-704412-C

Order Setting Further Proceedings Re: Supreme Court Order

01/07/2020



Order

Filed By: Counter Defendant Country Garden Owners' Association
Order

01/07/2020



Notice of Entry of Order

Filed By: Counter Defendant Country Garden Owners' Association
Notice of Entry of Order

02/24/2020



Answer to Counterclaim

Filed By: Plaintiff 5316 Clover Blossom CT Trust
Answer to Defendant U.S. Bank, National Association's Counterclaims

02/24/2020



Supplemental Case Conference Report

Filed by: Defendant U S Bank National Association
Supplemental Joint Case Conference Report

03/04/2020



Scheduling and Trial Order

Scheduling Order and Order Setting Civil Jury Trial

10/01/2020



Motion for Summary Judgment

Filed By: Plaintiff 5316 Clover Blossom CT Trust
Motion for Summary Judgment

10/01/2020



Clerk's Notice of Hearing

Notice of Hearing

10/01/2020



Motion for Summary Judgment

Filed By: Defendant U S Bank National Association
U.S. Bank, N.A., as Trustee's Renewed Motion for Summary Judgment

10/02/2020



Clerk's Notice of Hearing

Notice of Hearing

10/12/2020



Notice of Change of Hearing

Notice of Change of Hearing

10/15/2020



Opposition

Opposition to U.S. Bank's Motion for Summary Judgment

10/15/2020



Opposition to Motion For Summary Judgment

U.S. Bank, N.A., as Trustee's Opposition to Plaintiff 5316 Clover Blossom Ct Trust's Motion for Summary Judgment

11/07/2020



Stipulation and Order

Filed by: Defendant U S Bank National Association
Stipulation and Order to Consolidate Hearings on Cross- Motions for Summary Judgment and Continue Trial

11/09/2020









Notice of Entry of Stipulation and Order

Filed By: Defendant U S Bank National Association
Notice of Entry of Stipulation and Order to Consolidate Hearings on Cross-Motions for Summary Judgment and Continue Trial

CASE SUMMARY

CASE NO. A-14-704412-C

12/03/2020	 Reply in Support Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Plaintiff's Reply in Support of Motion for Summary judgment</i>
12/03/2020	 Reply in Support Filed By: Defendant U S Bank National Association <i>U.S. Bank, N.A., as Trustee's Reply in Support of its Renewed Motion for Summary Judgment</i>
12/29/2020	 Findings of Fact, Conclusions of Law and Order Filed By: Defendant U S Bank National Association <i>Finding of Fact Conclusion of Law and Order</i>
12/29/2020	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Defendant U S Bank National Association <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
01/04/2021	Case Reassigned to Department 8 <i>Judicial Reassignment to Judge Jessica K. Peterson</i>
01/04/2021	 Memorandum of Costs and Disbursements Filed By: Defendant U S Bank National Association <i>U.S. Bank, National Association, Successor Trustee to Bank of America, N.A., Successor by Merger to Lasalle Bank, N.A., as Trustee to the Holders of The Zuni Mortgage Loan Trust 2006-OA1's Memorandum of Costs and Disbursements</i>
01/28/2021	 Notice of Appeal Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Notice of Appeal</i>
01/28/2021	 Case Appeal Statement Filed By: Plaintiff 5316 Clover Blossom CT Trust <i>Case Appeal Statement</i>

DISPOSITIONS



07/31/2017	Clerk's Certificate (Judicial Officer: Crockett, Jim) Debtors: U S Bank National Association (Defendant) Creditors: 5316 Clover Blossom CT Trust (Plaintiff) Judgment: 07/31/2017, Docketed: 08/01/2017 Comment: Supreme Court No. 68915 APPEAL VACATED AND REMANDED
08/03/2017	Amended Summary Judgment (Judicial Officer: Crockett, Jim) Debtors: U S Bank National Association (Defendant) Creditors: 5316 Clover Blossom CT Trust (Plaintiff) Judgment: 08/03/2017, Docketed: 09/17/2015 Comment: Vacated
02/07/2018	Summary Judgment (Judicial Officer: Crockett, Jim) Debtors: U S Bank National Association (Defendant) Creditors: 5316 Clover Blossom CT Trust (Plaintiff) Judgment: 02/07/2018, Docketed: 02/08/2018
04/13/2018	Summary Judgment (Judicial Officer: Crockett, Jim) Debtors: U S Bank National Association (Cross Claimant) Creditors: Country Garden Owners Association (Cross Defendant) Judgment: 04/13/2018, Docketed: 04/16/2018

CASE SUMMARY

CASE NO. A-14-704412-C

04/13/2018	<p>Order of Dismissal (Judicial Officer: Crockett, Jim) Debtors: U S Bank National Association (Defendant) Creditors: 5316 Clover Blossom CT Trust (Plaintiff) Judgment: 04/13/2018, Docketed: 04/16/2018 Comment: 4/18/18 Dismissed Per Dept (McBride) Debtors: U S Bank National Association (Counter Claimant) Creditors: 5316 Clover Blossom CT Trust (Counter Defendant) Judgment: 04/13/2018, Docketed: 04/16/2018 Comment: 4/18/18 Dismissed Per Dept (McBride)</p>
11/15/2019	<p>Clerk's Certificate (Judicial Officer: Crockett, Jim) Debtors: U S Bank National Association (Defendant) Creditors: 5316 Clover Blossom CT Trust (Plaintiff) Judgment: 11/15/2019, Docketed: 11/15/2019 Comment: Supreme Court No. 75861 " Appeal Affirmed in Part and Reversed in Part</p>
12/29/2020	<p>Judgment (Judicial Officer: Crockett, Jim) Debtors: 5316 Clover Blossom CT Trust (Plaintiff) Creditors: U S Bank National Association (Defendant) Judgment: 12/29/2020, Docketed: 12/30/2020 Comment: Quiet Title</p>
12/29/2020	<p>Order of Dismissal (Judicial Officer: Crockett, Jim) Debtors: 5316 Clover Blossom CT Trust (Plaintiff) Creditors: U S Bank National Association (Defendant) Judgment: 12/29/2020, Docketed: 12/30/2020 Debtors: 5316 Clover Blossom CT Trust (Counter Defendant) Creditors: U S Bank National Association (Counter Claimant) Judgment: 12/29/2020, Docketed: 12/30/2020</p>

HEARINGS

03/12/2015	<p> Motion to Amend Complaint (9:00 AM) (Judicial Officer: Crockett, Jim) PLAINTIFF'S MOTION TO AMEND COMPLAINT Granted; Journal Entry Details: <i>Mr. Nitz stated that he has no opposition to Pltf's Motion to Amend Complaint. COURT ORDERED, motion GRANTED. Mr. Bohn to prepare the Order and circulate to Mr. Nitz to approve as to form and content. Pursuant to EDCR 7.21 the Order is to be submitted in 10 days. ;</i></p>
08/06/2015	<p>Motion for Summary Judgment (9:00 AM) (Judicial Officer: Crockett, Jim) 08/06/2015, 08/20/2015 <i>Plaintiff's Motion for Summary Judgment</i> Matter Continued; Granted; Matter Continued; Granted;</p>
08/06/2015	<p>Opposition and Countermotion (9:00 AM) (Judicial Officer: Crockett, Jim) 08/06/2015, 08/20/2015 <i>U.S. Bank, N.A.'s Opposition to Plaintiff's Motion for Summary Judgment and Countermotion for Summary Judgment Based on the Due Process Clause and Tender, or Alternatively, for Rule 56(f) Relief</i> Matter Continued; Denied; Matter Continued; Denied;</p>
08/06/2015	<p> All Pending Motions (9:00 AM) (Judicial Officer: Crockett, Jim) Matter Continued;</p>

CASE SUMMARY

CASE NO. A-14-704412-C

Journal Entry Details:

PLTF'S MOTION FOR SUMMARY JUDGMENT...U.S. BANK, N.A.'S OPPOSITION TO PLTF'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT BASED ON THE DUE PROCESS CLAUSE AND TENDER, OR ALTERNATIVELY, FOR RULE 56(f) RELIEF The Court reviewed all of the papers and is inclined to Grant the Pltf's Motion for Summary Judgment and Deny Deft's Countermotion for Summary Judgment and Deny Deft's Request for 56(f) relief. It is the sale that took place at a permissible non judicial foreclosure, and the Bank had alternative choices and chose not to exercise options to save its First Trust Deed. The Trustees Deed is conclusive proof binding on everyone who may have interest in the property. The Court opened the floor for arguments by counsel in addition to what is not contained in their briefs. Ms. Morgan requested an opportunity to file a Reply before the Court issues its Order, but would like to make her record today. **COURT ORDERED**, Ms. Morgan will have until 8/13/15 to file a Reply, and the matter is **CONTINUED** to the Chamber Calendar for Decision and no one needs to make an appearance. Colloquy between Court and counsel. Arguments by Mr. Brenner and Mr. Bohn with regard to a conclusive presumption. Ms. Morgan inquired as to the conclusive nature of the recital deeds. It is the Court's opinion that the Statute is constitutional in terms of its notice provisions and the reasons are articulated in the Statute NRS 47.250 and 47.240. Court stated it is conclusive as to all the recitals contained in the Trustees Deed. Mr. Brenner requested permission to brief that issue. The Trustees Deed and SFR is conclusive proof of all of the recitals contained therein and binding upon everyone. Court recited from the SFR Supreme Court opinion. Court further stated, the Statute is conclusive proof as opposed to conclusive presumption. Further argument by Mr. Brenner. The Court is not saying its mind cannot be changed, but we are talking about conclusive proof and not conclusive presumption, and counsel can include that in their supplemental briefs. All counsel can submit their supplement briefs in a blind brief and submit by 8/13/15 and the Court will decide in Chambers on 8/20/15. 8/20/15 @ 3:00 A.M. (Chamber Calendar) **DECISION: PLTF'S MOTION FOR SUMMARY JUDGMENT...U.S. BANK, N.A.'S OPPOSITION TO PLTF'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT BASED ON THE DUE PROCESS CLAUSE AND TENDER, OR ALTERNATIVELY, FOR RULE 56(f) RELIEF ;**

08/20/2015



All Pending Motions (3:00 AM) (Judicial Officer: Crockett, Jim)

Matter Heard;

Journal Entry Details:

PLTF'S MOTION FOR SUMMARY JUDGMENT...U.S. BANK, N.A.'S OPPOSITION TO PLTF'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT BASED ON THE DUE PROCESS CLAUSE AND TENDER, OR ALTERNATIVELY, FOR RULE 56(f) RELIEF The parties requested additional time to submit briefs at the 8/6/15 hearing, which the Court allowed and to be filed by 8/13/15. After reviewing the parties newest submissions, the Court is standing by its original inclination and that is as follows: **COURT ORDERED**, Pltf's Motion for Summary Judgment is **GRANTED**; Deft's Countermotion for Summary Judgment is **DENIED** and Deft's Countermotion for 56(f) relief is **DENIED**. Pltf to prepare the Order and circulate to counsel to approve as to form and content and submit to this Court in 10 days pursuant to EDCR 7.21. **CLERK'S NOTE:** A copy of this Minute Order was distributed to: Michael Bohn (mbohn@bohnlawfirm.com) Melanie Morgan (melanie.morgan@akerman.com) ;

09/10/2015



Status Check (9:00 AM) (Judicial Officer: Crockett, Jim)

Status Check - Trial Readiness

Case Closed;

Journal Entry Details:

Ms. Foster informed the Court that the Court Granted Summary Judgment on 8/20/15, and stated opposing counsel has signed the Order and approached the Bench with said Order. Record Reflect, the Court is signing the Order Granting Quiet Title along with Findings of Fact, Conclusions of Law and Judgment. Court noted opposing counsel has signed off on the Order approving same as to form and content. Thereafter, **COURT ORDERED**, trial date and all pending dates **VACATED. CASE CLOSED.;**

10/20/2015

CANCELED Pre Trial Conference (9:30 AM) (Judicial Officer: Crockett, Jim)

Vacated - per Judge





11/12/2015

CANCELED Calendar Call (9:30 AM) (Judicial Officer: Crockett, Jim)

Vacated - per Judge

CASE SUMMARY

CASE NO. A-14-704412-C

11/16/2015	<p>CANCELED Bench Trial (10:00 AM) (Judicial Officer: Crockett, Jim)</p> <p><i>Vacated - per Judge</i></p> <p><i>Civil Bench Trial</i></p>
08/31/2017	<p> Motion to Strike (9:00 AM) (Judicial Officer: Crockett, Jim)</p> <p><i>Plaintiff's Motion to Strike Demand for Jury Trial</i></p> <p>Granted;</p> <p>Journal Entry Details:</p> <p><i>Court noted Counsel's arguments as stated in the briefs, stated its inclination, and noted the hearing regarding further proceedings. Court noted the Supreme Court wanted this Court to reconsider 56(f) relief and in the stipulation signed by Commissioner Bulla, Court stated the dates for discovery. Court further voiced its concern on page 3, lines 12 and 13, that parties agree with Supreme Court, and stated what the Supreme Court did say. Colloquy regarding parties stipulation. COURT ORDERED, jury demand STRICKEN as to this case. Because stipulation is signed then you don't need to appear. If there are then issues, Counsel can notify Court on 10/3/17. ;</i></p>
10/03/2017	<p> Further Proceedings (9:00 AM) (Judicial Officer: Crockett, Jim)</p> <p><i>Order Vacating Judgment and Setting Further Proceedings Re: The Court of Appeals Court</i></p> <p><i>Order Vacating Judgment and Remanding</i></p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Court noted the Supreme Court's order and giving parties a chance to conduct discovery, noted parties submitted a stipulation. Court advised it would like parties to conduct a 16.1 conference and inquired as to whether one was conducted previously. Colloquy regarding discovery noting the Discovery commissioner signed an order for trial to be set after 4/9/18. Ms. Combs noted discovery cut-off of 1/24/18. Court stated the discovery plan has been met. Mr. Bohn further noted there is an order to strike the jury demand and convert it to a bench trial.;</i></p>
11/30/2017	<p> Motion to Dismiss (9:00 AM) (Judicial Officer: Crockett, Jim)</p> <p>11/30/2017, 12/12/2017</p> <p><i>Plaintiff's Motion to Dismiss Counterclaim</i></p> <p>Continued;</p> <p>Matter Heard;</p> <p>Continued;</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Noting the absence of Mr. Bohn, and the courtroom empty, COURT ORDERED, matter CONTINUED. Ms. Whelan to notify Mr. Bohn of the continued date. 12/12/17 9:00 AM PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIM...COUNTY GARDEN OWNER'S ASSOCIATION'S MOTION TO DISMISS THE CROSSCLAIM OF U.S. BANK NATIONAL ASSOCIATION *CLERK'S NOTE: Mr. Bohn appeared thereafter and was informed of the continued date./kh 11-30-17 ;</i></p>
12/12/2017	<p>Motion to Dismiss (9:00 AM) (Judicial Officer: Crockett, Jim)</p> <p><i>Cross Defendant Country Garden Owner's Association's Motion to Dismiss the Crossclaim of U.S. Bank National Association</i></p> <p>Matter Heard;</p>
12/12/2017	<p> All Pending Motions (9:00 AM) (Judicial Officer: Crockett, Jim)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIM...CROSS DEFENDANT COUNTRY GARDEN OWNER'S ASSOCIATION'S MOTION TO DISMISS THE CROSSCLAIM OF U.S. BANK NATIONAL ASSOCIATION Court noted the details of the case, read from the Supreme Court's remand, and inquired as to what additional discovery there may be if any. Ms. Lachman sent a written discovery request and took depositions, noting there are two months left but they are happy with the discovery that has been conducted. Court noted that instead of a motion for summary judgment, Plaintiff filed a motion to dismiss and advised it is subject to</i></p>

CASE SUMMARY

CASE NO. A-14-704412-C

being treated as a motion for summary judgment. Court noted its findings upon its review and stated the pleadings strongly suggest that the bank forfeited its equitable claim. Further comments by the Court regarding what the bank could have done, the bank's actions, and thought on commercial unreasonableness. Court stated its findings and inclination. Mr. Lachman stated his argument on the mortgage protection clause and further argued. **COURT FINDS**, no reasonable minds would differ as to what the appropriate action would be. Further arguments by Counsel. **COURT ORDERED**, Plaintiff's Motion to Dismiss Counterclaim and Cross Defendant Country Garden Owner's Association's Motion to Dismiss, both to be treated as a motion for summary judgment and **GRANTED**. Court advised it needs findings of fact and conclusion of law that Court can agree with, Counsel to submit to opposing Counsel its proposed order for approval as to form and content only, and submit even without agreement to the Court within **TEN** days per EDCR 7.21.;

02/08/2018



Status Check: Trial Readiness (9:00 AM) (Judicial Officer: Crockett, Jim)

Matter Heard;

Journal Entry Details:

Court reminded the order signed 2/5/18 was sent out but is not yet filed and Mr. Trippiedi advised they filed it yesterday. Ms. Lowell presented the Court with the order granting the motion to dismiss Country Gardens. Court inquired whether this disposes of the entire case and parties agreed it does. Country Gardens to include a 54(b) certification. Trial dates **STAND.**;

04/03/2018



Motion For Reconsideration (3:00 AM) (Judicial Officer: Crockett, Jim)

Defendant U.S. Bank, N.A., as Trustee's Motion for Reconsideration under NRCP 59

Minute Order - No Hearing Held;

Journal Entry Details:

COURT FINDS arguments regarding reasoning and authorities in Plaintiff's opposition to be persuasive and **DENIES** the motion for reconsideration. Court directs Plaintiff's Counsel to prepare an order that articulates the analysis in the Plaintiff's opposition, in the form of an appropriate order denying the motion for reconsideration, to be prepared within **TEN** days per EDCR 7.21; no need to submit to opposing Counsel for approval, to be reviewed solely by the Court. *CLERK'S NOTE: Minute order sent via e-mail to mbohn@bohnlawfirm.com; office@bohnlawfirm.com; blopihero@wrightlegal.net; dnitz@wrightlegal.net./kh 4-4-18 ;

04/24/2018

CANCELED Pre Trial Conference (9:30 AM) (Judicial Officer: Crockett, Jim)

Vacated - Case Closed

05/17/2018

CANCELED Calendar Call (9:30 AM) (Judicial Officer: Crockett, Jim)

Vacated - Case Closed

05/21/2018

CANCELED Bench Trial (10:00 AM) (Judicial Officer: Crockett, Jim)

Vacated - Case Closed

12/12/2019



Further Proceedings (9:00 AM) (Judicial Officer: Crockett, Jim)

Order Setting Further Proceedings Re: Supreme Court Order

Set Status Check;

Journal Entry Details:

Nicki Nikoll, Esq. present on behalf of Plaintiff. Ryan Hastings, Esq. present on behalf of Country Gardens. Nicholas Belay, Esq. present on behalf of US Bank. Court reviewed history of case and indicated there needs to be an Order that effectively implements the instructions of the Court reversing the Summary Judgment as to Clover Blossom CT Trust and affirming it as to the Homeowners Association. Mr. Hastings to prepare the Order and provide it to the Court within ten days. Colloquy regarding a supplemental 16.1 and discovery plan. Counsel to file Order consistent with the Supreme Courts Decision and file it by January 30, 2020 at 9:00 am and if filed in advance there is not need to return for status check. **ADDITIONALLY ORDERED**, status check SET. 01/30/20 9:00 AM **STATUS CHECK: FILING OF ORDER ON SC REMAND**;

01/30/2020

CANCELED Status Check (9:00 AM) (Judicial Officer: Crockett, Jim)

Vacated - per Law Clerk

Status Check: Filing of Order on SC Remand

CASE SUMMARY

CASE NO. A-14-704412-C

02/25/2020



Status Check (9:00 AM) (Judicial Officer: Crockett, Jim)

Status Check: Discovery and Trial Order

Matter Heard; Status Check: Discovery and Trial Order

Journal Entry Details:

COURT NOTED, Plaintiff filed an Answer to Defendant Counterclaim; and a supplemental JCCR was filed. Mr. Belay advised the Court all of the documents have been disclosed. Mr. Trippiedi advised the deadline is realistic and some discovery has already been done. Mr. Trippiedi stated he will be taking the deposition of the foreclosure agent that acted on behalf of the HOA. Colloquy between the Court and counsel regarding deadlines and scheduling. Court stated counsel for both sides have committed that the deadlines established in court will be deadlines that both sides will abide by and not seeking extensions by stipulation or Motions. IT IS HEREBY ORDERED: 1. All parties shall complete discovery on or before 8/31/2020. 2. All parties shall file motions to amend pleadings or add parties on or before EXPIRED. 3. All parties shall make initial expert disclosures pursuant to N.R.C.P. 16.l(a)(2) on or before EXPIRED. 4. All parties shall make rebuttal expert disclosures pursuant to N.R.C.P. 16.l(a)(2) on or before EXPIRED. 5. All parties shall file dispositive motions on or before 10/1/2020. Certain dates may have been changed to bring all deadlines into compliance with N.R.C.P. 16.1. Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P. 16.l(a)(3) must be made at least 30 days before trial. Motions for extensions of discovery shall be made in strict accordance with E.D.C.R. 2.35. The deadline for responding to discovery requests must fall on or before the date discovery closes. A deposition must be completed on or before the date discovery closes. Unless otherwise ordered, all discovery disputes (except disputes presented at a pre-trial conference or at trial) must first be heard by the Discovery Commissioner. IT IS HEREBY FURTHER ORDERED THAT: A. The above entitled case is set for trial on a 5-week stack commencing Monday, January 4, 2021, at 10:00 AM. B. The parties are to appear Thursday, November 19, 2020, at 9:00 AM for a Status Check on the matter. C. A Pre-Trial Conference with the designated attorney and/or parties in proper person will be held on Tuesday, December 8, 2020, at 9:30 AM. Trial counsel should be prepared to advise the court of any potential conflicts they or their witnesses have in the five (5) week stack. D. A Calendar Call will be held on Thursday, December 17, 2020, at 9:30AM. Trial Counsel (and any party in proper person) must appear. If counsel anticipates the need for audio visual equipment during trial, a request must be submitted to the District Court AV Department following the Calendar Call. E. The Joint Pre-trial Memorandum must be filed no later than 4:00 PM on Friday, December 11, 2020, with a courtesy copy delivered to chambers. EDCR 2.67 must be fully complied with. F. All discovery deadlines, deadlines for filing dispositive motions and motions to amend the pleadings or add parties are controlled by the previously issued Scheduling Order. G. Stipulations to continue trial and discovery deadlines must comply with EDCR 2.35. All Stipulations resulting in the continuance of a trial must include an Order and be submitted to Department 24 for signature by the District Court Judge. H. All motions in limine shall be filed at least 45 days prior to trial. Counsel are required to confer, pursuant to EDCR 2.47, at least two weeks prior to filing any motion in limine. ;

11/19/2020

CANCELED Status Check: Trial Readiness (9:00 AM) (Judicial Officer: Crockett, Jim)
Vacated - per Stipulation and Order

12/07/2020

Motion for Summary Judgment (3:00 AM) (Judicial Officer: Crockett, Jim)
Plaintiff's Motion for Summary Judgment
Denied;

12/07/2020



Motion for Summary Judgment (3:00 AM) (Judicial Officer: Crockett, Jim)

U.S. Bank, N.A., as Trustee's Renewed Motion for Summary Judgment

Granted;


Journal Entry Details:

Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by the parties without oral argument since the court deems oral argument unnecessary. US Bank contends that it is entitled to Summary Judgment on its claim of quiet title and its claims for declaratory relief that it deed of trust survived the foreclosure sale. There is no other conclusion to reach in this case. Prior to the foreclosure sale by Country Gardens HOA, Miles Bauer tendered an amount in excess of the superpriority lien amount and even though the tender was rejected and Bauer knew it was being rejected, the tender itself operated to cure the default as to the superpriority lien resulting in the deed of trust surviving the foreclosure sale. In the Diamond Spur case, the Nevada Supreme court held that a similar tender under similar circumstances cured the default as to the superpriority portion of the lien resulting in the DOT surviving the foreclosure sale. The same result obtains here. There are no genuine disputes as

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-14-704412-C

	to any material issues of fact. The Motion for Summary Judgement is GRANTED. Counsel for U S Bank to prepare and submit the order with in14 days per EDCR 7.21. COURT FURTHER ORDERED, matter SET for status Check. 1/12/21 (CHAMBERS) STATUS CHECK: FILING OF ORDER CLERK'S NOTE: The above minute order has been electronically served to parties via email and/or Odyssey File & Serve. //12-7-20/ dy;
12/07/2020	Status Check: Reset Trial Date (3:00 AM) (Judicial Officer: Crockett, Jim) Moot;
12/07/2020	 All Pending Motions (3:00 AM) (Judicial Officer: Crockett, Jim) Minute Order - No Hearing Held; Journal Entry Details: U.S. BANK, N.A., AS TRUSTEE'S RENEWED MOTION FOR SUMMARY JUDGMENT PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT STATUS CHECK: RESET TRIAL DATE AS TO: U.S. BANK, N.A., AS TRUSTEE'S RENEWED MOTION FOR SUMMARY JUDGMENT Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by the parties without oral argument since the court deems oral argument unnecessary. US Bank contends that it is entitled to Summary Judgment on its claim of quiet title and its claims for declaratory relief that it deed of trust survived the foreclosure sale. There is no other conclusion to reach in this case. Prior to the foreclosure sale by Country Gardens HOA, Miles Bauer tendered an amount in excess of the superpriority lien amount and even though the tender was rejected and Bauer knew it was being rejected, the tender itself operated to cure the default as to the superpriority lien resulting in the deed of trust surviving the foreclosure sale. In the Diamond Spur case, the Nevada Supreme court held that a similar tender under similar circumstances cured the default as to the superpriority portion of the lien resulting in the DOT surviving the foreclosure sale. The same result obtains here. There are no genuine disputes as to any material issues of fact. The Motion for Summary Judgement is GRANTED. Counsel for U S Bank to prepare and submit the order with in14 days per EDCR 7.21. COURT FURTHER ORDERED, matter SET for status Check. AS TO: PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT STATUS CHECK: RESET TRIAL DATE Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by the parties without oral argument since the court deems oral argument unnecessary. The granting of U S Bank s Motion for Summary Judgement necessarily results in the denial of Plaintiff s Motion for Summary Judgement . Accordingly, Plaintiff s Motion for Summary Judgement is DENIED, Status Check: Reset Trial Date OFF CALENDAR as MOOT. Counsel for U S Bank to prepare and submit the order with in14 days per EDCR 7.21. COURT FURTHER ORDERED, matter SET for status Check. 1/12/21 (CHAMBERS) STATUS CHECK: FILING OF ORDER CLERK'S NOTE: The above minute order has been electronically served to parties via email and/or Odyssey File & Serve. //12-7-20/ dy;
12/10/2020	CANCELED Pre Trial Conference (9:30 AM) (Judicial Officer: Crockett, Jim) Vacated - per Stipulation and Order
12/17/2020	CANCELED Calendar Call (9:30 AM) (Judicial Officer: Crockett, Jim) Vacated - per Stipulation and Order
01/04/2021	CANCELED Bench Trial (10:00 AM) (Judicial Officer: Crockett, Jim) Vacated - per Stipulation and Order
01/13/2021	CANCELED Status Check (3:00 AM) (Judicial Officer: Peterson, Jessica K.) Vacated STATUS CHECK: FILING OF ORDER

DATE

FINANCIAL INFORMATION

Cross Defendant Country Garden Owners Association	
Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 1/29/2021	0.00
Defendant U S Bank National Association	
Total Charges	671.00
Total Payments and Credits	671.00
Balance Due as of 1/29/2021	0.00

CASE SUMMARY

CASE NO. A-14-704412-C

Plaintiff 5316 Clover Blossom CT Trust

Total Charges

694.00

Total Payments and Credits

694.00

Balance Due as of 1/29/2021

0.00

Defendant U S Bank National Association

Appeal Bond Balance as of 1/29/2021

1,000.00

DISTRICT COURT CIVIL COVER SHEET

A- 14- 704412- C XVI I I

County, Nevada

Case No. _____

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): <div style="text-align: center;">5316 CLOVER BLOSSOM CT TRUST</div>	Defendant(s) (name/address/phone): U.S. BANK, NATIONAL ASSOCIATION, SUCCESSOR TRUSTEE TO BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO LASALLE BANK, N.A., AS TRUSTEE TO THE HOLDERS OF THE ZUNI MORTGAGE LOAN TRUST 2006-0A1, MORTGAGE LOAN PASS-THROUGH CERTIFICATES SERIES 2006-0A1; and CLEAR RECON CORPS
Attorney (name/address/phone): <div style="text-align: center;">MICHAEL F. BOHN, ESQ.</div> <div style="text-align: center;">376 East warm Springs Road, Suite 140</div> <div style="text-align: center;">Las Vegas, NV 89119</div> <div style="text-align: center;">(702) 642-3113</div>	Attorney (name/address/phone): <div style="text-align: center;">[Signature]</div>

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

Civil Case Filing Types

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

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

July 25, 2014

Date

/s/ Michael F. Bohn, Esq. /
Signature of initiating party or representative

See other side for family-related case filings.

Heather S. Smith

CLERK OF THE COURT

FFCO

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

NICHOLAS E. BELAY, ESQ.

Nevada Bar No. 15175

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*Attorneys for U.S. Bank, N.A., Successor Trustee to
Bank of America, N.A., Successor by Merger to
LaSalle Bank, N.A., as Trustee to the Holders of the
Zuni Mortgage Loan Trust 2006-OA1, Mortgage
Loan Pass-Through Certificates, Series 2006-OA1*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

5316 CLOVER BLOSSOM CT TRUST;

Plaintiff,

v.

U.S. BANK, NATIONAL ASSOCIATION,
SUCCESSOR TRUSTEE TO BANK OF
AMERICA, N.A., SUCCESSOR BY MERGER
TO LASALLE BANK, N.A., AS TRUSTEE TO
THE HOLDERS OF THE ZUNI MORTGAGE
LOAN TRUST 2006-OA1, MORTGAGE
LOAN PASS-THROUGH CERTIFICATES
SERIES 2006-OA1; and CLEAR RECON
CORPS,

Defendants.

Case No.: A-14-704412-C

Dept. No.: XXIV

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER**

On October 1, 2020, U.S. Bank, N.A., Successor Trustee to Bank of America, N.A., Successor by Merger to LaSalle Bank, N.A., as Trustee to the Holders of the Zuni Mortgage Loan Trust 2006-OA1, Mortgage Loan Pass-Through Certificates Series 2006-OA1 (**U.S. Bank**), filed a renewed motion for summary judgment on 5316 Clover Blossom CT Trust's quiet title and declaratory relief claims and U.S. Bank's counterclaims for quiet title and declaratory relief. Clover Blossom filed a motion for summary judgment against U.S. Bank on the same day. On October 15, 2020, U.S. Bank filed an opposition to Clover Blossom's motion, and Clover Blossom filed an opposition to U.S. Bank's

1 renewed motion. On December 3, 2020, both parties filed replies in support of their
2 respective motions.

3 This Court finds it appropriate to decide the cross-motions on the briefs and pleadings without
4 oral argument. *See* EDCR 2.23(c-d). Having considered the papers and pleadings herein, the
5 oppositions thereto, and all exhibits, and good cause appearing, this Court makes the following
6 findings of fact, conclusions of law, and order.

7 FINDINGS OF FACT

8 1. On or about June 24, 2004, borrowers Dennis and Geraldine Johnson executed a
9 promissory note in the amount of \$147,456.00 to finance their purchase of property located at 5316
10 Clover Blossom Court, North Las Vegas, Nevada 89031, APN 124-31-220-092 (**property**). The note
11 is secured by a deed of trust executed in favor of Countrywide Home Loans, Inc. and recorded in the
12 Clark County Recorder's Office as instrument number 20040630-0002408.

13 2. The deed of trust was assigned to U.S. Bank via an assignment of deed of trust recorded
14 in the Clark County Recorder's Office as instrument number 20110620-0002747.

15 3. The property is governed by Country Garden Owners Association's (the **HOA**)
16 declaration of covenants, conditions, and restrictions, which require the property's owner to pay certain
17 assessments to the HOA. Borrowers defaulted on those obligations. To recover this delinquency and
18 foreclose if necessary, the HOA retained Alessi & Koenig, LLC.

19 4. On February 22, 2012, Alessi recorded a notice of delinquent assessment (lien) in the
20 Clark County Recorder's Office as instrument number 20120222-0001651. The notice stated the total
21 amount of the Borrowers' delinquency was \$1,095.50.

22 5. On April 20, 2012, Alessi recorded a notice of default and election to sell in the Clark
23 County Recorder's Office as instrument number 20120420-0000428.

24 6. On October 31, 2012, Alessi recorded a notice of trustee's sale in the Clark County
25 Recorder's Office as instrument number 20121031-0000738, which set the sale for
26 November 28, 2012.

27 ...

28 ...

1 7. Upon being notified of the HOA's lien, Bank of America, N.A. (**BANA**) – who serviced
2 the loan secured by the deed of trust at the time – retained Miles, Bauer, Bergstrom & Winters, LLP
3 to protect the deed of trust by satisfying the lien's superpriority portion.

4 8. On November 21, 2012, Miles Bauer sent a letter to Alessi requesting a payoff ledger
5 showing the superpriority amount and "offer[ing] to pay that sum upon presentation of adequate proof
6 of the same[.]"

7 9. Alessi provided Miles Bauer with a payoff ledger on or about November 27, 2012. The
8 ledger showed the HOA had not incurred any maintenance or nuisance-abatement charges, and its
9 monthly assessments were \$55.00 each.

10 10. Nine months of delinquent assessments thus totaled \$495.00. This Court finds \$495.00
11 was the maximum superpriority amount of the HOA's lien.

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13 was enclosed by a letter explaining that the tendered amount was composed of the \$495.00 constituting
14 "9 months' worth of common assessments" in addition to \$999.50 "in reasonable collection costs," and
15 was meant "to satisfy [U.S. Bank's] obligations to the HOA as a holder of the first deed of trust[.]"

16 12. Alessi rejected this superpriority-plus tender by refusing delivery and returning the
17 check to Miles Bauer.

18 13. On January 16, 2013, Alessi foreclosed on the HOA's lien, selling the property to
19 Clover Blossom for \$8,200.00, as reflected in the trustee's deed upon sale recorded in the Clark County
20 Records' Office as instrument number 20130124-0002549.

21 14. Clover Blossom filed its complaint on July 25, 2014, seeking to quiet title to
22 the property.

23 15. U.S. Bank answered the complaint on September 25, 2014, asserting, among others,
24 the affirmative defense that the HOA's foreclosure sale was void as to the deed of trust.

25 16. Clover Blossom moved for summary judgment on May 18, 2015, arguing the recitals
26 contained in the trustee's deed were sufficient to show that it obtained title free and clear through the
27 HOA's foreclosure sale.

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24. The Nevada Court of Appeals reversed the judgment, finding U.S. Bank had "produced evidence showing that it tendered an amount in excess of the superpriority portion of the HOA's lien to [Alessi] prior to the sale," which, viewed "in the light most favorable to U.S. Bank ... would have extinguished the superpriority lien such that [Clover Blossom] took the property subject to U.S. Bank's deed of trust." The Court of Appeals remanded "for proceedings consistent with [its] order."

2. Summary judgment is proper when there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law. NRCP 56(c); *see also Wood v. Safeway, Inc.*, 121

1 Nev. 724, 730, 121 P.3d 1026, 1030 (2005). After the movant has carried its burden to identify issues
2 where there is no genuine issue of material fact, the non-moving party must "set forth specific facts
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5 3. This case is controlled by the Nevada Supreme Court's decision in *Bank of America*,
6 *N.A. v. SFR Investments Pool 1, LLC*, 134 Nev. 604, 427 P.3d 113 (2018) (*Diamond Spur*). In
7 *Diamond Spur*, the Supreme Court held that BANA's superpriority payments through Miles Bauer are
8 effective tenders that "cure[] the default and prevent[] foreclosure as to the superpriority portion of the
9 HOA's lien by operation of law," meaning the purchaser at the association's subsequent foreclosure
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11 4. The tender facts in *Diamond Spur* are substantively identical to the tender facts here.
12 Just as it did in *Diamond Spur*, here BANA, through Miles Bauer, tendered payment to the HOA's
13 collection agent for an amount sufficient to cure the superpriority default before the HOA's
14 foreclosure sale.

15 5. There is no genuine dispute that the amount Miles Bauer tendered was sufficient to
16 satisfy the superpriority portion of the HOA's lien. U.S. Bank produced authenticated business records
17 and testimony from the HOA's corporate representative showing the HOA's monthly assessments were
18 \$55.00 each during the relevant period and that the HOA had not incurred any maintenance or
19 nuisance-abatement charges related to the property. Clover Blossom failed to produce any contrary
20 evidence. Thus, \$495.00 was the maximum superpriority amount of the HOA's lien. *See Diamond*
21 *Spur*, 134 Nev. at 606 ("[T]he superpriority portion of an HOA lien includes only charges for
22 maintenance and nuisance abatement, and nine months of unpaid assessments."). Miles Bauer
23 tendered \$1,494.50 to Alessi.

24 6. Likewise, there is no genuine dispute that the \$1,495.00 tender was delivered to and
25 rejected by Alessi, as shown by Miles Bauer's authenticated business records. Alessi's unjustified
26 rejection is irrelevant – the fact that Miles Bauer tendered an amount sufficient to satisfy the
27 superpriority portion of the HOA's lien renders all other facts immaterial under *Diamond Spur*. *See*
28 *Wood*, 121 Nev. at 731 ("The substantive law controls which factual disputes are material and will

1 preclude summary judgment; other factual disputes are irrelevant."). Clover Blossom thus purchased
2 "the property subject to the deed of trust" as a matter of law. *See Diamond Spur*, 134 Nev. at 612.

3 7. While Clover Blossom does not dispute that the tender was delivered and was for more
4 than the superpriority amount, Clover Blossom contends it is still entitled to a judgment that it owns
5 the property free and clear for two reasons: (1) equity weighs in its favor; and (2) U.S. Bank's
6 counterclaims are time barred under NRS 11.220's four-year statute of limitations. Both
7 arguments fail.

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19 at 612)).

20 9. Clover Blossom's statute of limitations argument fails for several reasons. First, Miles
21 Bauer's tender protected the deed of trust by operation of law. *See Diamond Spur*, 134 Nev. at 611.
22 U.S. Bank was not required to file suit to obtain a judgment that the deed of trust survived. *See Renfroe*
23 *v. Carrington Mortg. Servs., LLC*, 456 P.3d 1055, 2020 WL 762638, at *2 (Nev. Feb. 14, 2020)
24 (unpublished) ("Moreover, we clarify that Carrington had no obligation to prevail in a judicial action
25 as a condition precedent to enforcing its deed of trust that had already survived the HOA's foreclosure
26 sale.") (citing *Diamond Spur*, 134 Nev. at 606).

27 10. Second, even if U.S. Bank's counterclaims are governed by a four-year statute of
28 limitations, as Clover Blossom contends, the counterclaims are timely. U.S. Bank has contended that

1 its deed of trust survived the HOA's foreclosure sale since it appeared in this case by filing its answer
2 on September 25, 2014. Because the counterclaims "arose out of the conduct, transaction, or
3 occurrence set out—or attempted to be set out—in the original" answer, the counterclaims relate back
4 to the original answer. *See* NRCP 15(c)(1). Clover Blossom is put to no disadvantage by U.S. Bank's
5 counterclaims relating back – the parties have been litigating the effect of Miles Bauer's tender in both
6 this Court and the Court of Appeals since 2015. *See Costello v. Casler*, 127 Nev. 436, 441, 254 P.3d
7 631, 634 (2011) ("NRCP 15(c) is to be liberally construed to allow relation back of the amended
8 pleading where the amended party will be put to no disadvantage.").

9 11. Moreover, even if U.S. Bank's counterclaims do not relate back, they are still timely
10 because the limitations period was tolled during the pendency of U.S. Bank's first appeal – from
11 September 28, 2015 to July 31, 2017 – as U.S. Bank was unable to file its counterclaims during that
12 time. *See Young v. United States*, 535 U.S. 43, 50 (2002) (holding limitations period for claim against
13 debtor tolled while debtor protected by automatic stay); *see also Irwin v. Dept. of Veterans Affairs*,
14 498 U.S. 89, 96 (1990) ("We have allowed equitable tolling in situations where the claimant has
15 actively pursued his judicial remedies by filing a defective pleading during the statutory period.").

16 12. Third, even if U.S. Bank's counterclaims were untimely (they are not), U.S. Bank would
17 still be entitled to an order that its deed of trust encumbers Clover Blossom's title because it asserted
18 tender as an affirmative defense to Clover Blossom's quiet title and declaratory relief claims. It is
19 black letter law that "[l]imitations do not run against defenses. The statute is available only as a shield,
20 not as a sword." *Dredge Corp. v. Wells Cargo, Inc.*, 80 Nev. 99, 102, 389 P.2d 394, 396 (1964). That
21 is because "statutes of limitations are intended to protect a defendant against the evidentiary problems
22 associated with defending a stale claim." *Nev. State Bank v. Jamison Family P'ship*, 106 Nev. 792,
23 798, 801 P.2d 1377, 1381 (1990). "To use the statute of limitations to cut off the consideration of a
24 particular defense in the case is quite foreign to the policy of preventing the commencement of stale
25 litigation." *United States v. Western Pac. R.R. Co.*, 352 U.S. 59, 72 (1956). Clover Blossom cannot
26 obtain a declaratory judgment that it owns the property free and clear of the deed of trust in light of
27 U.S. Bank's affirmative defense of tender.

28 ...

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the deed of trust recorded in the Clark County Recorder's Office as instrument number 20040630-0002408 was not extinguished by the HOA's foreclosure sale reflected in the trustee's deed upon sale recorded in the Clark County Recorders' Office as instrument number 20130124-0002549.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the HOA's foreclosure sale conveyed to Clover Blossom title to the property located at 5316 Clover Blossom Court, North Las Vegas, Nevada 89031, APN 124-31-220-092 subject to the deed of trust recorded in the Clark County Recorder's Office as instrument number 20040630-0002408, which remains a valid and enforceable lien following the HOA's foreclosure sale.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that U.S. Bank's renewed motion for summary judgment on Clover Blossom's quiet title and declaratory relief claims and U.S. Bank's quiet title and declaratory relief counterclaims is **GRANTED**. Judgment is entered in favor of U.S. Bank and against Clover Blossom on those claims.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that all remaining claims are **DISMISSED** as moot.

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IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this order fully resolves all claims asserted by all parties and thus constitutes a final judgment.

DATED _____, 2020. Dated this 29th day of December, 2020



Dated: December 28, 2020

CF8 94C 88A7 AF85
Jim Crockett
District Court Judge

Submitted by:

AKERMAN LLP

/s/ Nicholas E. Belay

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

NICHOLAS E. BELAY, ESQ.

Nevada Bar No. 15175

1635 Village Center Circle, Suite 200

Las Vegas, Nevada 89134

*Attorneys for U.S. Bank, N.A., Successor Trustee to
Bank of America, N.A., Successor by Merger to
LaSalle Bank, N.A., as Trustee to the Holders of the
Zuni Mortgage Loan Trust 2006-OA1, Mortgage
Loan Pass-Through Certificates Series 2006-OA1*

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 5316 Clover Blossom CT Trust,
Plaintiff(s)

CASE NO: A-14-704412-C

7 vs.

DEPT. NO. Department 24

8
9 U S Bank National Association,
Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

15 Service Date: 12/29/2020

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21 Eserve Contact . office@bohnlawfirm.com

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23 Ariel Stern ariel.stern@akerman.com

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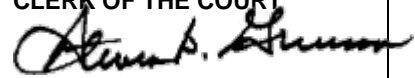
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Nicholas Belay

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Zuni Mortgage Loan Trust 2006-OA1, Mortgage
Loan Pass-Through Certificates, Series 2006-OA1*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

5316 CLOVER BLOSSOM CT TRUST;

Plaintiff,

v.

U.S. BANK, NATIONAL ASSOCIATION,
SUCCESSOR TRUSTEE TO BANK OF
AMERICA, N.A., SUCCESSOR BY MERGER
TO LASALLE BANK, N.A., AS TRUSTEE TO
THE HOLDERS OF THE ZUNI MORTGAGE
LOAN TRUST 2006-OA1, MORTGAGE
LOAN PASS-THROUGH CERTIFICATES
SERIES 2006-OA1; and CLEAR RECON
CORPS,

Defendants.

Case No.: A-14-704412-C

Dept. No.: XXIV

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER**

...

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1 **TO: ALL PARTIES OF RECORD AND THEIR COUNSEL:**

2 PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law, and Order has been
3 entered on December 29, 2020, a copy of which is attached hereto.

4 DATED December 29, 2020.

5 **AKERMAN LLP**

6 /s/ Nicholas E. Belay

7 MELANIE D. MORGAN, ESQ.

8 Nevada Bar No. 8215

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14 *of America, N.A., Successor by Merger to LaSalle Bank,*
15 *N.A., as Trustee to the Holders of the Zuni Mortgage*
16 *Loan Trust 2006-OA1, Mortgage Loan Pass-Through*
17 *Certificates Series 2006-OA1*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 29th day of December 2020, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**, in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

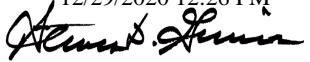
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Olivia Schulze	oschulze@pengillylawfirm.com

/s/ Patricia Larsen

An employee of AKERMAN LLP

EXHIBIT A

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CLERK OF THE COURT

FFCO

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Defendants.

Case No.: A-14-704412-C

Dept. No.: XXIV

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER**

On October 1, 2020, U.S. Bank, N.A., Successor Trustee to Bank of America, N.A., Successor by Merger to LaSalle Bank, N.A., as Trustee to the Holders of the Zuni Mortgage Loan Trust 2006-OA1, Mortgage Loan Pass-Through Certificates Series 2006-OA1 (**U.S. Bank**), filed a renewed motion for summary judgment on 5316 Clover Blossom CT Trust's quiet title and declaratory relief claims and U.S. Bank's counterclaims for quiet title and declaratory relief. Clover Blossom filed a motion for summary judgment against U.S. Bank on the same day. On October 15, 2020, U.S. Bank filed an opposition to Clover Blossom's motion, and Clover Blossom filed an opposition to U.S. Bank's

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1 renewed motion. On December 3, 2020, both parties filed replies in support of their
2 respective motions.

3 This Court finds it appropriate to decide the cross-motions on the briefs and pleadings without
4 oral argument. *See* EDCR 2.23(c-d). Having considered the papers and pleadings herein, the
5 oppositions thereto, and all exhibits, and good cause appearing, this Court makes the following
6 findings of fact, conclusions of law, and order.

7 FINDINGS OF FACT

8 1. On or about June 24, 2004, borrowers Dennis and Geraldine Johnson executed a
9 promissory note in the amount of \$147,456.00 to finance their purchase of property located at 5316
10 Clover Blossom Court, North Las Vegas, Nevada 89031, APN 124-31-220-092 (**property**). The note
11 is secured by a deed of trust executed in favor of Countrywide Home Loans, Inc. and recorded in the
12 Clark County Recorder's Office as instrument number 20040630-0002408.

13 2. The deed of trust was assigned to U.S. Bank via an assignment of deed of trust recorded
14 in the Clark County Recorder's Office as instrument number 20110620-0002747.

15 3. The property is governed by Country Garden Owners Association's (the **HOA**)
16 declaration of covenants, conditions, and restrictions, which require the property's owner to pay certain
17 assessments to the HOA. Borrowers defaulted on those obligations. To recover this delinquency and
18 foreclose if necessary, the HOA retained Alessi & Koenig, LLC.

19 4. On February 22, 2012, Alessi recorded a notice of delinquent assessment (lien) in the
20 Clark County Recorder's Office as instrument number 20120222-0001651. The notice stated the total
21 amount of the Borrowers' delinquency was \$1,095.50.

22 5. On April 20, 2012, Alessi recorded a notice of default and election to sell in the Clark
23 County Recorder's Office as instrument number 20120420-0000428.

24 6. On October 31, 2012, Alessi recorded a notice of trustee's sale in the Clark County
25 Recorder's Office as instrument number 20121031-0000738, which set the sale for
26 November 28, 2012.

27 ...

28 ...

1 7. Upon being notified of the HOA's lien, Bank of America, N.A. (**BANA**) – who serviced
2 the loan secured by the deed of trust at the time – retained Miles, Bauer, Bergstrom & Winters, LLP
3 to protect the deed of trust by satisfying the lien's superpriority portion.

4 8. On November 21, 2012, Miles Bauer sent a letter to Alessi requesting a payoff ledger
5 showing the superpriority amount and "offer[ing] to pay that sum upon presentation of adequate proof
6 of the same[.]"

7 9. Alessi provided Miles Bauer with a payoff ledger on or about November 27, 2012. The
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21 Bauer's tender protected the deed of trust by operation of law. *See Diamond Spur*, 134 Nev. at 611.
22 U.S. Bank was not required to file suit to obtain a judgment that the deed of trust survived. *See Renfroe*
23 *v. Carrington Mortg. Servs., LLC*, 456 P.3d 1055, 2020 WL 762638, at *2 (Nev. Feb. 14, 2020)
24 (unpublished) ("Moreover, we clarify that Carrington had no obligation to prevail in a judicial action
25 as a condition precedent to enforcing its deed of trust that had already survived the HOA's foreclosure
26 sale.") (citing *Diamond Spur*, 134 Nev. at 606).

27 10. Second, even if U.S. Bank's counterclaims are governed by a four-year statute of
28 limitations, as Clover Blossom contends, the counterclaims are timely. U.S. Bank has contended that

1 its deed of trust survived the HOA's foreclosure sale since it appeared in this case by filing its answer
2 on September 25, 2014. Because the counterclaims "arose out of the conduct, transaction, or
3 occurrence set out—or attempted to be set out—in the original" answer, the counterclaims relate back
4 to the original answer. *See* NRCP 15(c)(1). Clover Blossom is put to no disadvantage by U.S. Bank's
5 counterclaims relating back – the parties have been litigating the effect of Miles Bauer's tender in both
6 this Court and the Court of Appeals since 2015. *See Costello v. Casler*, 127 Nev. 436, 441, 254 P.3d
7 631, 634 (2011) ("NRCP 15(c) is to be liberally construed to allow relation back of the amended
8 pleading where the amended party will be put to no disadvantage.").

9 11. Moreover, even if U.S. Bank's counterclaims do not relate back, they are still timely
10 because the limitations period was tolled during the pendency of U.S. Bank's first appeal – from
11 September 28, 2015 to July 31, 2017 – as U.S. Bank was unable to file its counterclaims during that
12 time. *See Young v. United States*, 535 U.S. 43, 50 (2002) (holding limitations period for claim against
13 debtor tolled while debtor protected by automatic stay); *see also Irwin v. Dept. of Veterans Affairs*,
14 498 U.S. 89, 96 (1990) ("We have allowed equitable tolling in situations where the claimant has
15 actively pursued his judicial remedies by filing a defective pleading during the statutory period.").

16 12. Third, even if U.S. Bank's counterclaims were untimely (they are not), U.S. Bank would
17 still be entitled to an order that its deed of trust encumbers Clover Blossom's title because it asserted
18 tender as an affirmative defense to Clover Blossom's quiet title and declaratory relief claims. It is
19 black letter law that "[l]imitations do not run against defenses. The statute is available only as a shield,
20 not as a sword." *Dredge Corp. v. Wells Cargo, Inc.*, 80 Nev. 99, 102, 389 P.2d 394, 396 (1964). That
21 is because "statutes of limitations are intended to protect a defendant against the evidentiary problems
22 associated with defending a stale claim." *Nev. State Bank v. Jamison Family P'ship*, 106 Nev. 792,
23 798, 801 P.2d 1377, 1381 (1990). "To use the statute of limitations to cut off the consideration of a
24 particular defense in the case is quite foreign to the policy of preventing the commencement of stale
25 litigation." *United States v. Western Pac. R.R. Co.*, 352 U.S. 59, 72 (1956). Clover Blossom cannot
26 obtain a declaratory judgment that it owns the property free and clear of the deed of trust in light of
27 U.S. Bank's affirmative defense of tender.

28 ...

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the deed of trust recorded in the Clark County Recorder's Office as instrument number 20040630-0002408 was not extinguished by the HOA's foreclosure sale reflected in the trustee's deed upon sale recorded in the Clark County Recorders' Office as instrument number 20130124-0002549.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the HOA's foreclosure sale conveyed to Clover Blossom title to the property located at 5316 Clover Blossom Court, North Las Vegas, Nevada 89031, APN 124-31-220-092 subject to the deed of trust recorded in the Clark County Recorder's Office as instrument number 20040630-0002408, which remains a valid and enforceable lien following the HOA's foreclosure sale.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that U.S. Bank's renewed motion for summary judgment on Clover Blossom's quiet title and declaratory relief claims and U.S. Bank's quiet title and declaratory relief counterclaims is **GRANTED**. Judgment is entered in favor of U.S. Bank and against Clover Blossom on those claims.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that all remaining claims are **DISMISSED** as moot.

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1 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that this order fully resolves
2 all claims asserted by all parties and thus constitutes a final judgment.

3 DATED _____, 2020. Dated this 29th day of December, 2020

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8


9 Dated: December 28, 2020

CF8 94C 88A7 AF85
Jim Crockett
District Court Judge

10 Submitted by:

11 **AKERMAN LLP**

12 /s/ Nicholas E. Belay

13 MELANIE D. MORGAN, ESQ.

14 Nevada Bar No. 8215

15 NICHOLAS E. BELAY, ESQ.

16 Nevada Bar No. 15175

17 1635 Village Center Circle, Suite 200

18 Las Vegas, Nevada 89134

19 *Attorneys for U.S. Bank, N.A., Successor Trustee to*
20 *Bank of America, N.A., Successor by Merger to*
21 *LaSalle Bank, N.A., as Trustee to the Holders of the*
22 *Zuni Mortgage Loan Trust 2006-OA1, Mortgage*
23 *Loan Pass-Through Certificates Series 2006-OA1*
24
25
26
27
28

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 5316 Clover Blossom CT Trust,
Plaintiff(s)

CASE NO: A-14-704412-C

7 vs.

DEPT. NO. Department 24

8
9 U S Bank National Association,
Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

15 Service Date: 12/29/2020

16 "Melanie D. Morgan, Esq." . melanie.morgan@akerman.com

17 Akerman Las Vegas Office . akermanlas@akerman.com

18 Brandon Lopipero . blopipero@wrightlegal.net

19 Dana J. Nitz . dnitz@wrightlegal.net

20 Elizabeth Streible . elizabeth.streible@akerman.com

21 Eserve Contact . office@bohnlawfirm.com

22 Michael F Bohn Esq . mbohn@bohnlawfirm.com

23 Ariel Stern ariel.stern@akerman.com

24 Olivia Schulze oschulze@pengillylawfirm.com

25 Chris Schnider cschnider@pengillylawfirm.com

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Nicholas Belay

nicholas.belay@akerman.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

March 12, 2015

A-14-704412-C 5316 Clover Blossom CT Trust, Plaintiff(s)
vs.
U S Bank National Association, Defendant(s)

**March 12, 2015 9:00 AM Motion to Amend
Complaint**

HEARD BY: Crockett, Jim **COURTROOM:** Phoenix Building Courtroom -
11th Floor

COURT CLERK: Theresa Lee

RECORDER:

REPORTER:

PARTIES

PRESENT: Bohn, Michael F Attorney
Nitz, Dana Jonathon Attorney

JOURNAL ENTRIES

- Mr. Nitz stated that he has no opposition to Pltf's Motion to Amend Complaint. COURT ORDERED, motion GRANTED. Mr. Bohn to prepare the Order and circulate to Mr. Nitz to approve as to form and content. Pursuant to EDCR 7.21 the Order is to be submitted in 10 days.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

August 06, 2015

A-14-704412-C	5316 Clover Blossom CT Trust, Plaintiff(s)
	vs.
	U S Bank National Association, Defendant(s)

August 06, 2015 9:00 AM All Pending Motions

HEARD BY: Crockett, Jim **COURTROOM:** Phoenix Building Courtroom - 11th Floor

COURT CLERK: Theresa Lee

RECORDER:

REPORTER: Bill Nelson

PARTIES

PRESENT:	Bohn, Michael F	Attorney
	Brenner, Darren T.	Attorney
	Morgan, Melanie D.	Attorney

JOURNAL ENTRIES

- PLTF'S MOTION FOR SUMMARY JUDGMENT...U.S. BANK, N.A.'S OPPOSITION TO PLTF'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT BASED ON THE DUE PROCESS CLAUSE AND TENDER, OR ALTERNATIVELY, FOR RULE 56(f) RELIEF

The Court reviewed all of the papers and is inclined to Grant the Pltf's Motion for Summary Judgment and Deny Deft's Countermotion for Summary Judgment and Deny Deft's Request for 56(f) relief. It is the sale that took place at a permissible non judicial foreclosure, and the Bank had alternative choices and chose not to exercise options to save its First Trust Deed. The Trustees Deed is conclusive proof binding on everyone who may have interest in the property.

The Court opened the floor for arguments by counsel in addition to what is not contained in their briefs. Ms. Morgan requested an opportunity to file a Reply before the Court issues its Order, but would like to make her record today. COURT ORDERED, Ms. Morgan will have until 8/13/15 to file a Reply, and the matter is CONTINUED to the Chamber Calendar for Decision and no one needs to

make an appearance.

Colloquy between Court and counsel. Arguments by Mr. Brenner and Mr. Bohn with regard to a conclusive presumption. Ms. Morgan inquired as to the conclusive nature of the recital deeds. It is the Court's opinion that the Statute is constitutional in terms of its notice provisions and the reasons are articulated in the Statute NRS 47.250 and 47.240. Court stated it is conclusive as to all the recitals contained in the Trustees Deed. Mr. Brenner requested permission to brief that issue. The Trustees Deed and SFR is conclusive proof of all of the recitals contained therein and binding upon everyone. Court recited from the SFR Supreme Court opinion. Court further stated, the Statute is conclusive proof as opposed to conclusive presumption. Further argument by Mr. Brenner. The Court is not saying its mind cannot be changed, but we are talking about conclusive proof and not conclusive presumption, and counsel can include that in their supplemental briefs. All counsel can submit their supplement briefs in a blind brief and submit by 8/13/15 and the Court will decide in Chambers on 8/20/15.

8/20/15 @ 3:00 A.M. (Chamber Calendar) DECISION: PLTF'S MOTION FOR SUMMARY JUDGMENT...U.S. BANK, N.A.'S OPPOSITION TO PLTF'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT BASED ON THE DUE PROCESS CLAUSE AND TENDER, OR ALTERNATIVELY, FOR RULE 56(f) RELIEF

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

August 20, 2015

A-14-704412-C	5316 Clover Blossom CT Trust, Plaintiff(s)
	vs.
	U S Bank National Association, Defendant(s)

August 20, 2015

3:00 AM

All Pending Motions

HEARD BY: Crockett, Jim

COURTROOM: Phoenix Building Courtroom -
11th Floor

COURT CLERK: Theresa Lee

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- PLTF'S MOTION FOR SUMMARY JUDGMENT...U.S. BANK, N.A.'S OPPOSITION TO PLTF'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT BASED ON THE DUE PROCESS CLAUSE AND TENDER, OR ALTERNATIVELY, FOR RULE 56(f) RELIEF

The parties requested additional time to submit briefs at the 8/6/15 hearing, which the Court allowed and to be filed by 8/13/15. After reviewing the parties newest submissions, the Court is standing by its original inclination and that is as follows: COURT ORDERED, Pltf's Motion for Summary Judgment is GRANTED; Deft's Countermotion for Summary Judgment is DENIED and Deft's Countermotion for 56(f) relief is DENIED.

Pltf to prepare the Order and circulate to counsel to approve as to form and content and submit to this Court in 10 days pursuant to EDCR 7.21.

CLERK'S NOTE: A copy of this Minute Order was distributed to: Michael Bohn (mbohn@bohnlawfirm.com) Melanie Morgan (melanie.morgan@akerman.com)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

September 10, 2015

A-14-704412-C 5316 Clover Blossom CT Trust, Plaintiff(s)
vs.
U S Bank National Association, Defendant(s)

September 10, 2015 9:00 AM Status Check

HEARD BY: Crockett, Jim **COURTROOM:** Phoenix Building Courtroom -
11th Floor

COURT CLERK: Theresa Lee

RECORDER:

REPORTER:

PARTIES

PRESENT: Foster, Shirley J. Attorney
Powers, Eric S. Attorney

JOURNAL ENTRIES

- Ms. Foster informed the Court that the Court Granted Summary Judgment on 8/20/15, and stated opposing counsel has signed the Order and approached the Bench with said Order. Record Reflect, the Court is signing the Order Granting Quiet Title along with Findings of Fact, Conclusions of Law and Judgment. Court noted opposing counsel has signed off on the Order approving same as to form and content. Thereafter, COURT ORDERED, trial date and all pending dates VACATED. CASE CLOSED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

August 31, 2017

A-14-704412-C	5316 Clover Blossom CT Trust, Plaintiff(s)
	vs.
	U S Bank National Association, Defendant(s)

August 31, 2017 9:00 AM Motion to Strike

HEARD BY: Crockett, Jim **COURTROOM:** Phoenix Building Courtroom - 11th Floor

COURT CLERK: Katrina Hernandez

RECORDER:

REPORTER:

PARTIES

PRESENT:	Garner, Rex D. Attorney
	Trippiedi, Adam R. Attorney

JOURNAL ENTRIES

- Court noted Counsel's arguments as stated in the briefs, stated its inclination, and noted the hearing regarding further proceedings. Court noted the Supreme Court wanted this Court to reconsider 56(f) relief and in the stipulation signed by Commissioner Bulla, Court stated the dates for discovery. Court further voiced its concern on page 3, lines 12 and 13, that parties agree with Supreme Court, and stated what the Supreme Court did say. Colloquy regarding parties stipulation. COURT ORDERED, jury demand STRICKEN as to this case. Because stipulation is signed then you don't need to appear. If there are then issues, Counsel can notify Court on 10/3/17.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

October 03, 2017

A-14-704412-C 5316 Clover Blossom CT Trust, Plaintiff(s)
vs.
U S Bank National Association, Defendant(s)

October 03, 2017 9:00 AM Further Proceedings

HEARD BY: Crockett, Jim **COURTROOM:** Phoenix Building Courtroom -
11th Floor

COURT CLERK: Katrina Hernandez

RECORDER:

REPORTER:

PARTIES

PRESENT: Bohn, Michael F Attorney
 Combs, Jamie Attorney

JOURNAL ENTRIES

- Court noted the Supreme Court's order and giving parties a chance to conduct discovery, noted parties submitted a stipulation. Court advised it would like parties to conduct a 16.1 conference and inquired as to whether one was conducted previously. Colloquy regarding discovery noting the Discovery commissioner signed an order for trial to be set after 4/9/18. Ms. Combs noted discovery cut-off of 1/24/18. Court stated the discovery plan has been met. Mr. Bohn further noted there is an order to strike the jury demand and convert it to a bench trial.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

November 30, 2017

A-14-704412-C 5316 Clover Blossom CT Trust, Plaintiff(s)
vs.
U S Bank National Association, Defendant(s)

November 30, 2017 9:00 AM Motion to Dismiss

HEARD BY: Crockett, Jim

COURTROOM: Phoenix Building Courtroom -
11th Floor

COURT CLERK: Katrina Hernandez

RECORDER:

REPORTER:

PARTIES

PRESENT: Whelan, Karen Attorney

JOURNAL ENTRIES

- Noting the absence of Mr. Bohn, and the courtroom empty, COURT ORDERED, matter CONTINUED. Ms. Whelan to notify Mr. Bohn of the continued date.

12/12/17 9:00 AM PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIM...COUNTY GARDEN
OWNER'S ASSOCIATION'S MOTION TO DISMISS THE CROSSCLAIM OF U.S. BANK NATIONAL
ASSOCIATION

*CLERK'S NOTE: Mr. Bohn appeared thereafter and was informed of the continued date./kh 11-30-17

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

December 12, 2017

A-14-704412-C	5316 Clover Blossom CT Trust, Plaintiff(s) vs. U S Bank National Association, Defendant(s)
---------------	--

December 12, 2017 9:00 AM

All Pending Motions

HEARD BY: Crockett, Jim

COURTROOM: Phoenix Building Courtroom -
11th Floor

COURT CLERK: Katrina Hernandez

RECORDER:

REPORTER:

PARTIES

PRESENT:	Lachman, Scott Lowell, Elizabeth B. Trippiedi, Adam R.	Attorney Attorney Attorney
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JOURNAL ENTRIES

- PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIM...CROSS DEFENDANT COUNTRY GARDEN OWNER'S ASSOCIATION'S MOTION TO DISMISS THE CROSSCLAIM OF U.S. BANK NATIONAL ASSOCIATION

Court noted the details of the case, read from the Supreme Court's remand, and inquired as to what additional discovery there may be if any. Ms. Lachman sent a written discovery request and took depositions, noting there are two months left but they are happy with the discovery that has been conducted. Court noted that instead of a motion for summary judgment, Plaintiff filed a motion to dismiss and advised it is subject to being treated as a motion for summary judgment. Court noted its findings upon its review and stated the pleadings strongly suggest that the bank forfeited its equitable claim. Further comments by the Court regarding what the bank could have done, the bank's actions, and thought on commercial unreasonableness. Court stated its findings and inclination. Mr. Lachman stated his argument on the mortgage protection clause and further argued. COURT FINDS, no reasonable minds would differ as to what the appropriate action would be. Further arguments by Counsel. COURT ORDERED, Plaintiff's Motion to Dismiss Counterclaim and

Cross Defendant Country Garden Owner's Association's Motion to Dismiss, both to be treated as a motion for summary judgment and GRANTED. Court advised it needs findings of fact and conclusion of law that Court can agree with, Counsel to submit to opposing Counsel its proposed order for approval as to form and content only, and submit even without agreement to the Court within TEN days per EDCR 7.21.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

February 08, 2018

A-14-704412-C	5316 Clover Blossom CT Trust, Plaintiff(s)
	vs.
	U S Bank National Association, Defendant(s)

February 08, 2018

9:00 AM

**Status Check: Trial
Readiness**

HEARD BY: Crockett, Jim

COURTROOM: Phoenix Building 11th Floor
116

COURT CLERK: Katrina Hernandez

RECORDER:

REPORTER:

PARTIES

PRESENT:	Combs, Jamie	Attorney
	Lowell, Elizabeth B.	Attorney
	Trippiedi, Adam R.	Attorney

JOURNAL ENTRIES

- Court reminded the order signed 2/5/18 was sent out but is not yet filed and Mr. Trippiedi advised they filed it yesterday. Ms. Lowell presented the Court with the order granting the motion to dismiss Country Gardens. Court inquired whether this disposes of the entire case and parties agreed it does. Country Gardens to include a 54(b) certification. Trial dates STAND.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

April 03, 2018

A-14-704412-C	5316 Clover Blossom CT Trust, Plaintiff(s) vs. U S Bank National Association, Defendant(s)
---------------	--

April 03, 2018

3:00 AM

**Motion For
Reconsideration**

HEARD BY: Crockett, Jim

COURTROOM: Phoenix Building 11th Floor
116

COURT CLERK: Katrina Hernandez

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- COURT FINDS arguments regarding reasoning and authorities in Plaintiff's opposition to be persuasive and DENIES the motion for reconsideration. Court directs Plaintiff's Counsel to prepare an order that articulates the analysis in the Plaintiff's opposition, in the form of an appropriate order denying the motion for reconsideration, to be prepared within TEN days per EDCR 7.21; no need to submit to opposing Counsel for approval, to be reviewed solely by the Court.

*CLERK'S NOTE: Minute order sent via e-mail to mbohn@bohnlawfirm.com;
office@bohnlawfirm.com; blopipero@wrightlegal.net; dnitz@wrightlegal.net./kh 4-4-18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

December 12, 2019

A-14-704412-C	5316 Clover Blossom CT Trust, Plaintiff(s)
	vs.
	U S Bank National Association, Defendant(s)

December 12, 2019 9:00 AM Further Proceedings

HEARD BY: Crockett, Jim **COURTROOM:** Phoenix Building 11th Floor
116

COURT CLERK: Nylasia Packer

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Nikci Nikoll, Esq. present on behalf of Plaintiff. Ryan Hastings, Esq. present on behalf of Country Gardens. Nicholas Belay, Esq. present on behalf of US Bank.

Court reviewed history of case and indicated there needs to be an Order that effectively implements the instructions of the Court reversing the Summary Judgment as to Clover Blossom CT Trust and affirming it as to the Homeowners Association. Mr. Hastings to prepare the Order and provide it to the Court within ten days. Colloquy regarding a supplemental 16.1 and discovery plan. Counsel to file Order consistent with the Supreme Courts Decision and file it by January 30, 2020 at 9:00 am and if filed in advance there is not need to return for status check. ADDITIONALLY ORDERED, status check SET.

01/30/20 9:00 AM STATUS CHECK: FILING OF ORDER ON SC REMAND

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property**COURT MINUTES****February 25, 2020**

A-14-704412-C 5316 Clover Blossom CT Trust, Plaintiff(s)
 vs.
 U S Bank National Association, Defendant(s)

February 25, 2020**9:00 AM****Status Check**

**Status Check:
Discovery and Trial
Order**

HEARD BY: Crockett, Jim

COURTROOM: Phoenix Building 11th Floor
116

COURT CLERK: Phyllis Irby**RECORDER:** Gail Reiger**REPORTER:****PARTIES**

PRESENT: Belay, Nicholas Ethan Attorney
 Trippiedi, Adam R. Attorney

JOURNAL ENTRIES

- COURT NOTED, Plaintiff filed an Answer to Defendant Counterclaim; and a supplemental JCCR was filed. Mr. Belay advised the Court all of the documents have been disclosed. Mr. Trippiedi advised the deadline is realistic and some discovery has already been done. Mr. Trippiedi stated he will be taking the deposition of the foreclosure agent that acted on behalf of the HOA. Colloquy between the Court and counsel regarding deadlines and scheduling. Court stated counsel for both sides have committed that the deadlines established in court will be deadlines that both sides will abide by and not seeking extensions by stipulation or Motions.

IT IS HEREBY ORDERED:

1. All parties shall complete discovery on or before 8/31/2020.
2. All parties shall file motions to amend pleadings or add parties on or before EXPIRED.

PRINT DATE: 01/29/2021

Page 14 of 19

Minutes Date: March 12, 2015

3. All parties shall make initial expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on or before EXPIRED.
 4. All parties shall make rebuttal expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on or before EXPIRED.
 5. All parties shall file dispositive motions on or before 10/1/2020.
- Certain dates may have been changed to bring all deadlines into compliance with N.R.C.P. 16.1.

Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P. 16.1(a)(3) must be made at least 30 days before trial.

Motions for extensions of discovery shall be made in strict accordance with E.D.C.R. 2.35. The deadline for responding to discovery requests must fall on or before the date discovery closes. A deposition must be completed on or before the date discovery closes.

Unless otherwise ordered, all discovery disputes (except disputes presented at a pre-trial conference or at trial) must first be heard by the Discovery Commissioner.

IT IS HEREBY FURTHER ORDERED THAT:

- A. The above entitled case is set for trial on a 5-week stack commencing Monday, January 4, 2021, at 10:00 AM.
- B. The parties are to appear Thursday, November 19, 2020, at 9:00 AM for a Status Check on the matter.
- C. A Pre-Trial Conference with the designated attorney and/or parties in proper person will be held on Tuesday, December 8, 2020, at 9:30 AM. Trial counsel should be prepared to advise the court of any potential conflicts they or their witnesses have in the five (5) week stack.
- D. A Calendar Call will be held on Thursday, December 17, 2020, at 9:30AM. Trial Counsel (and any party in proper person) must appear. If counsel anticipates the need for audio visual equipment during trial, a request must be submitted to the District Court AV Department following the Calendar Call.
- E. The Joint Pre-trial Memorandum must be filed no later than 4:00 PM on Friday, December 11, 2020, with a courtesy copy delivered to chambers. EDCR 2.67 must be fully complied with.
- F. All discovery deadlines, deadlines for filing dispositive motions and motions to amend the pleadings or add parties are controlled by the previously issued Scheduling Order.
- G. Stipulations to continue trial and discovery deadlines must comply with EDCR 2.35. All Stipulations resulting in the continuance of a trial must include an Order and be submitted to Department 24 for signature by the District Court Judge.
- H. All motions in limine shall be filed at least 45 days prior to trial. Counsel are required to confer, pursuant to EDCR 2.47, at least two weeks prior to filing any motion in limine.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property**COURT MINUTES****December 07, 2020**

A-14-704412-C 5316 Clover Blossom CT Trust, Plaintiff(s)
 vs.
 U S Bank National Association, Defendant(s)

**December 07, 2020 3:00 AM Motion for Summary
 Judgment**

HEARD BY: Crockett, Jim**COURTROOM:** Phoenix Building 11th Floor
116**COURT CLERK:** Dara Yorke**RECORDER:****REPORTER:**

**PARTIES
 PRESENT:**

JOURNAL ENTRIES

- Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by the parties without oral argument since the court deems oral argument unnecessary. US Bank contends that it is entitled to Summary Judgment on its claim of quiet title and its claims for declaratory relief that its deed of trust survived the foreclosure sale. There is no other conclusion to reach in this case. Prior to the foreclosure sale by Country Gardens HOA, Miles Bauer tendered an amount in excess of the superpriority lien amount and even though the tender was rejected and Bauer knew it was being rejected, the tender itself operated to cure the default as to the superpriority lien resulting in the deed of trust surviving the foreclosure sale. In the Diamond Spur case, the Nevada Supreme court held that a similar tender under similar circumstances cured the default as to the superpriority portion of the lien resulting in the DOT surviving the foreclosure sale. The same result obtains here. There are no genuine disputes as to any material issues of fact. The Motion for Summary Judgement is GRANTED. Counsel for U S Bank to prepare and submit the order with in 14 days per EDCR 7.21. COURT FURTHER ORDERED, matter SET for status Check.

1/12/21 (CHAMBERS) STATUS CHECK: FILING OF ORDER

CLERK'S NOTE: The above minute order has been electronically served to parties via email and/or Odyssey File & Serve. //12-7-20/ dy

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

December 07, 2020

A-14-704412-C	5316 Clover Blossom CT Trust, Plaintiff(s)
	vs.
	U S Bank National Association, Defendant(s)

December 07, 2020 3:00 AM

All Pending Motions

HEARD BY: Crockett, Jim

COURTROOM: Phoenix Building 11th Floor
116

COURT CLERK: Dara Yorke

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- U.S. BANK, N.A., AS TRUSTEE'S RENEWED MOTION FOR SUMMARY JUDGMENT
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT STATUS CHECK: RESET TRIAL DATE

AS TO: U.S. BANK, N.A., AS TRUSTEE'S RENEWED MOTION FOR SUMMARY JUDGMENT
Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by the parties without oral argument since the court deems oral argument unnecessary. US Bank contends that it is entitled to Summary Judgment on its claim of quiet title and its claims for declaratory relief that its deed of trust survived the foreclosure sale. There is no other conclusion to reach in this case. Prior to the foreclosure sale by Country Gardens HOA, Miles Bauer tendered an amount in excess of the superpriority lien amount and even though the tender was rejected and Bauer knew it was being rejected, the tender itself operated to cure the default as to the superpriority lien resulting in the deed of trust surviving the foreclosure sale. In the Diamond Spur case, the Nevada Supreme court held that a similar tender under similar circumstances cured the default as to the superpriority portion of the lien resulting in the DOT surviving the foreclosure sale. The same result obtains here. There are no genuine disputes as to any material issues of fact. The Motion for Summary Judgment is GRANTED. Counsel for U S Bank to prepare and submit the order with in 14

days per EDCR 7.21. COURT FURTHER ORDERED, matter SET for status Check.

AS TO: PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT STATUS CHECK: RESET TRIAL DATE

Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by the parties without oral argument since the court deems oral argument unnecessary. The granting of U S Bank s Motion for Summary Judgement necessarily results in the denial of Plaintiff s Motion for Summary Judgement . Accordingly, Plaintiff s Motion for Summary Judgement is DENIED, Status Check: Reset Trial Date OFF CALENDAR as MOOT. Counsel for U S Bank to prepare and submit the order with in 14 days per EDCR 7.21. COURT FURTHER ORDERED, matter SET for status Check.

1/12/21 (CHAMBERS) STATUS CHECK: FILING OF ORDER

CLERK'S NOTE: The above minute order has been electronically served to parties via email and/or Odyssey File & Serve. //12-7-20/ dy



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

MICHAEL F. BOHN, ESQ.
2260 CORPORATE CIR., STE 480
HENDERSON, NV 89074

DATE: January 29, 2021
CASE: A-14-704412-C

RE CASE: 5316 CLOVER BLOSSOM CT TRUST vs. U.S. BANK, NATIONAL ASSOCIATION, SUCCESSOR TRUSTEE TO BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO LASALLE BANK, N.A., AS TRUSTEE TO THE HOLDERS OF THE ZUNI MORTGAGE LOAN TRUST 2006-OA1, MORTGAGE LOAN PASS-THROUGH CERTIFICATES SERIES 2006-OA1

NOTICE OF APPEAL FILED: January 28, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

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

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

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

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

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

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

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

5316 CLOVER BLOSSOM CT TRUST,

Plaintiff(s),

vs.

U.S. BANK, NATIONAL ASSOCIATION,
SUCCESSOR TRUSTEE TO BANK OF
AMERICA, N.A., SUCCESSOR BY MERGER
TO LASALLE BANK, N.A., AS TRUSTEE TO
THE HOLDERS OF THE ZUNI MORTGAGE
LOAN TRUST 2006-OA1, MORTGAGE
LOAN PASS-THROUGH CERTIFICATES
SERIES 2006-OA1,

Defendant(s),

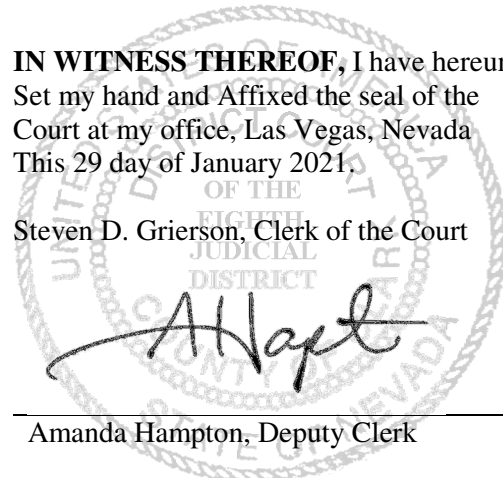
Case No: A-14-704412-C

Dept No: VIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 29 day of January 2021.

Steven D. Grierson, Clerk of the Court

The seal is circular with a double-lined border. The outer ring contains the text "EIGHTH JUDICIAL DISTRICT COURT" at the top and "STATE OF NEVADA" at the bottom. The inner circle contains the text "OF THE EIGHTH JUDICIAL DISTRICT". Overlaid on the seal is a handwritten signature in black ink.

Amanda Hampton, Deputy Clerk