

FILED

MAR 02 2021

IN THE SUPREME COURT OF THE STATE OF NEVADA

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

INDICATE FULL CAPTION:

LEO F. KRAMER; AUDREY E. KRAMER;

Appellants, in pro se

vs.

NATIONAL DEFAULT SERVICING
CORPORATION; BRECKENRIDGE
PROPERTY FUND 2016, LLC;
WEDGEWOOD, INC.; ALYSSA MC DERMOTT

Respondents

No. 82379

DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

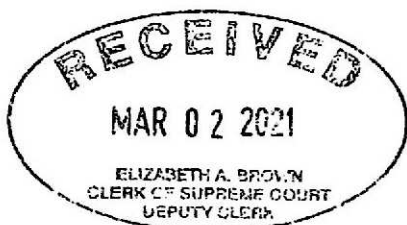
Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for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

WARNING

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

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

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




Revised December 2015

21-06152

1. Judicial District (3rd) THIRD Department (1)
County LYON Judge JOHN P. SCHLEGELMILCH
District Ct. Case No. 18-CV-00663

2. Attorney filing this docketing statement:


Attorney _____ Telephone _____
Firm _____
Address _____


Client(s) Appellant, LEO F. KRAMER, in pro se APPELLANT'S ADDRESS: 2364 REDWOOD ROAD,
HERCULES, CA 94547
APPELLANT'S TELEPHONE: 510-708-9100

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

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

Attorney _____ Telephone _____
Firm _____
Address _____


Client(s) Appellant, AUDREY E. KRAMER, in pro se APPELLANT'S ADDRESS: 2364 REDWOOD ROAD,
HERCULES, CA 94547
APPELLANT'S TELEPHONE: 510-708-9100

Attorney _____ Telephone _____
Firm _____
Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

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

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input checked="" type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input checked="" type="checkbox"/> Grant Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input checked="" type="checkbox"/> Other disposition (specify): _____ |
- **See answer noted at bottom of this page.

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue N/A
- ☐ Termination of parental rights

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

THERE ARE NONE.

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

- a) Kramer et al v. JPMorgan Chase Bank, N.A. et al - Case No.: 3:18-cv-00001-MMD-WGC - US DISTRICT COURT
- b) Kramer et al v. JPMorgan Chase Bank, N.A. et al - Case No.: 18-15959 - 9th Circuit Court of Appeals. This case was denied based on being deemed as untimely, not on the merits of the case.
- c) Kramer et al v. JPMorgan Chase Bank, N.A. et al - Case No.: 18-15959 - 9th Circuit Court of Appeals. This case was filed based on 60 (b) (6) Motion to Vacate based on Newly Discovered evidence of FRAUD, and is still pending decision.
- d) LEO F. KRAMER v. U.S. Bankruptcy Court - Petition No.: 14-42866 - U.S. Bankruptcy Court Northern California (Oakland). This bankruptcy was filed in Appellant, Leo Kramer's name ONLY. Appellant, Audrey Kramer was not a party to this bankruptcy.

****ANSWER TO NO. (4) above under OTHER:**

Denial to Amend 1st. Amended Complaint to add JPMorgan Chase Bank as a defendant
(as one of DOES 1-49) due to newly discovered evidence of FRAUD related to this case.

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

- a) Wrongful Foreclosure & Declaratory Relief against Appellants' property commonly known as: 1740 Autumn Glen, Fernley, NV. ***This Court's ruling Denied Appellants' cause of actions.***
- b) National Default Servicing Corporation, who was not a duly appointed Trustee, unlawfully filed a Notice of Default against Appellants' real property when there was NO assignment of Deed of Trust, which ultimately caused the unlawful foreclosure and sale of Appellant's property, which questions if Breckenridge is in fact a bona fide encumbrancer of Appellants' property. ***This Court ignored and Denied Appellants' evidence of FRAUD.***
- c) Proper Statutory and Constitutional Notices were never provided, in accordance of Nevada State Foreclosure Laws. In addition to not being provided with proper NOD, Appellants were also not provided with Notice of Accounting records. ***This Court ignored and Denied Appellants' claim regarding the right to be provided with these notices.***
- d) Appellants' requested for Leave to Amend their First Amended Complaint to join JPMorgan Chase Bank as one of (DOES 1-49) to this case upon the Newly Discovered evidence of FRAUD (which was obtained through discovery) after Appellants hired a reputable Licensed Private Investigator, Mr. William Paatalo. ***Leave to Amend Complaint and include Chase Bank was Denied.***
- e) The Court committed substantial and reversible error when it excluded and disqualified Licensed Private Investigator, William Paatalo's testimony and exhibits concerning Newly Discovered evidence of FRAUD. ***The Court Denied Mr. Paatalo's testimony & and exhibits.***

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

- a) Whether Wrongful Foreclosure was committed against Appellants' property commonly known as: 1740 Autumn Glen, Fernley, Nevada? And whether Declaratory Relief should be granted?
- b) Whether National Default Servicing Corporation, who was not a duly appointed Trustee, unlawfully filed and recorded Notice of Default against Appellants' real property when there was NO assignment of Deed of Trust, which ultimately caused the unlawful foreclosure and sale of Appellant's property? And whether or not Breckenridge could be a bona fide encumbrancer of Appellants' property?
- c) Whether NDSC failed to provide Appellants with the proper Statutory and Constitutional Notices, as required by Nevada State Foreclosure Laws? And specifically, whether NDSC failed to provide notice of accounting records that would allow the cure of a default, if any actually existed?
- d) Whether the Court committed substantial and reversible error when it failed to join JPMorgan Chase Bank to this case after the court was made aware of Newly Discovered evidence of FRAUD which was obtained through discovery after Appellants hired a reputable Licensed Private Investigator, Mr. William Paatalo?
- e) Whether he Court committed substantial and reversible error when it excluded and disqualified Licensed Private Investigator, William Paatalo's testimony and exhibits concerning Newly Discovered evidence of FRAUD?

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

N/A

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

- a) It is public policy to provide home owner/s statutory and constitutional notices, such as accounting notices, so that a property owner can know how much is owed in order to cure a default, if any exist.
- b) It is required by law that a Trustee be duly appointed prior to filing and recording Notice of Default against an owner/s property.
- c) It is improper and a felony to file and record fraudulent documents against someone/s property in order to lay false claim to property.

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

Appellants believe and are informed that this case should be retained in the Supreme Court because the matters surrounding this case are of statewide public importance. A person/s property is unique and considered sacrosanct and should not be unlawfully taken without due process of law.

Under NRAP 17, subparagraph (12):

(12) Matters raising as a principal issue a question of statewide public importance, or an issue upon which there is an inconsistency in the published decisions of the Court of Appeals or of the Supreme Court or a conflict between published decisions of the two courts. The matters in this case belong in the Court of Appeals

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

Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice? **NO**

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from 12/16/2020

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

17. Date written notice of entry of judgment or order was served

Written notice was never actually served to Appellants.

Was service by:

☐ Delivery

☒ Mail/electronic/fax

Appellants called the court numerous times for nearly 4 months (Sept-Dec of 2020) requesting the Judge's written notice of judgments, but did not learn until calling the court again on Dec. 22, 2020, from court clerk, Lindsey McCabe, that the judgments had been recorded on Dec. 16, 2020. Appellant, Audrey Kramer, informed Ms. McCabe that notice of judgment was never provided to Appellants. Ms. McCabe did then inform Ms. Kramer that it was Defendant - NDSC's responsibility to provide the notices of judgments since NDSC had drafted the judgments. Appellants were shocked by learning of this fact; however, Ms. McCabe did then email copies of the judgments to Appellant's email address on Dec. 22, 2020.

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

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

N/A

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

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

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

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

Was service by:

☐ Delivery

☐ Mail

N/A

19. Date notice of appeal filed JANUARY 12, 2021

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

LEO F. KRAMER, in pro se and AUDREY E. KRAMER, in pro se filed together on January 12, 2021

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

SUBSTANTIVE APPEALABILITY

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

(a)

- | | |
|---|--|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input checked="" type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input checked="" type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

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

- NRAP 3A(b)(1) states:

3 A) CIVIL ACTIONS: STANDING TO APPEAL; APPEALABLE DETERMINATIONS

(b) Appealable Determinations. An appeal may be taken from the following judgments and orders of a district court in a civil action:

(1) A final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered.

EXPLANATION: Appellants received a final judgment in a civil action from the district court.

- NRS 233b.150 states: An aggrieved party may obtain a review of any final judgment of the district court by appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution. The appeal shall be taken as in other civil cases.

EXPLANATION: Appellants filed their appeal from final judgment of their civil case from the district court to the appellate court of competent jurisdiction in pursuant to Section 4 of Article 6 of the Nevada Constitution.

- NRS 703.376 Judicial review states: Appeal to Supreme Court. Any party to the action, within 60 days after the service of a copy of the order or judgment of the district court, may appeal to the Supreme Court as in other civil cases.

EXPLANATION: Appellants did timely file their notice of appeal within 30 days after service of a copy of the order or judgment of the district court.

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

(a) Parties:

- a) Appellant/Plaintiff, Leo F. Kramer
- b) Appellant/Plaintiff, Audrey E. Kramer
- c) Respondent/Defendant, National Default Servicing Corporation
- d) Respondent/Defendant, Breckenridge Property Fund 2016 LLC
- e) Respondent/Defendant, Wedgewood, Inc.
- f) Respondent/Defendant, Alyssa McDermott

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

- e) Respondent/Defendant, Wedgewood, Inc.
- f) Respondent/Defendant, Alyssa McDermott

These two Respondents/Defendants are not part of this appeal because the District Court dismissed them from the suit.

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

Appellants' Claims for Wrongful Foreclosure & Declaratory Relief against NDSC.

Appellants' Claims Breckenridge is not a bona fide encumbrancer of Appellant's real property because NDSC was not a duly appointed Trustee when they unlawfully foreclosed on Appellants' property.

Appellants' Claim that JPMorgan Chase Bank should be included in this action based on Newly Discovered evidence of FRAUD.

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

- ☒ Yes
☐ No

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

(a) Specify the claims remaining pending below:

N/A

(b) Specify the parties remaining below:

JPMORGAN CHASE BANK, Appellants' motioned the Dist. Court for Leave to Amend 1st Amended Complaint to include Chase Bank as a defendant as one of (DOES 1-49) due to Newly Discovered evidence of FRAUD committed against the Court in order to lay false claim against Appellants' real property. Appellants made this request in the interest of justice and for judicial economy. Appellants believe the court committed prejudicial and substantial error in denying this request.

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

☒ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☒ Yes

☐ No

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

N/A

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

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

PER COURT CLERK-LINDA:

****The latest-filed complaint should be filed and recorded with the District Court. If there is anything else that the Supreme/Appellate Court requires please advise and Appellants will provide if is within our power do to so.**

VERIFICATION

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

LEO F. KRAMER & AUDREY E. KRAMER, in pro se

N/A

Name of appellant Leo F. Kramer

Name of counsel of record

March 1, 2021

Date

Audrey Kramer

N/A

Signature of counsel of record

CALIFORNIA, CONTRA COSTA COUNTY

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 1 day of March, 2021, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

1) Matthew Schreiver
Hutchison & Steffen
1008 West Alta Drive, Suite 200
Las Vegas, NV 89145
Attorneys for Defendants, BRECKENRIDGE PROPERTY FUND 2016 LLC, et al.

2) Ace Van Patten
Tiffany & Bosco, P.A.
10100 W. Charleston Boulevard, Ste.220
Las Vegas, NV 89135
Attorneys for Defendant, NATIONAL DEFAULT SERVICING CORPORATION

Dated this 1 day of March, 2021

Audrey Kramer
Signature