

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEO KRAMER; AND AUDREY KRAMER,

Appellants,

vs.

NATIONAL DEFAULT SERVICING
CORPORATION; ALYSSA MCDERMOTT; AND
BRECKENRIDGE PROPERTY FUND 2016, LLC

Respondents.

Electronically Filed
Nov 12 2021 08:38 a.m.
Elizabeth A. Brown
Supreme Court Case
Clerk of Supreme Court
No.: 82379

District Court Case No.:
A18-cv-00663

**BRECKENRIDGE
PROPERTY FUND
2016, LLC'S MOTION
TO STRIKE
REQUESTS TO TAKE
JUDICIAL NOTICE**

MOTION TO STRIKE REQUESTS TO TAKE JUDICIAL NOTICE

Respondent Breckenridge Property Fund 2016, LLC (Breckenridge)
hereby moves this Court to strike Appellants requests for judicial notice.

This Court should strike the requests for judicial notice and portions of the
reply brief that rely on the requests for judicial notice.

NRAP 27 permits a party to seek relief by way of motion. On
November 2, 2021, Appellants filed requests for judicial notice in support of
Appellants' opening brief and reply brief amounting to hundreds of pages of
documents. Appellants rely on NRS 47.130, which permits judicial notice of facts
under certain circumstances. However, Appellants provide no direction to this Court

in their requests for judicial notice establishing that the district court considered the notice. See NRAP 10 (confining review to the record).

“On appeal, a court can only consider those matters that are contained in the record made by the court below and the necessary inferences that can be drawn therefrom.” *Mack v. Estate of Mack*, 125 Nev. 80, 91, 206 P.3d 98, 106 (2009). Further, the Court will generally “not take judicial notice of records in another and different case, even though the cases are connected.” *Occhiuto v. Occhiuto*, 97 Nev. 143, 145, 625 P.2d 568, 569 (1981).

Breckenridge will be substantially prejudiced if this Court does not strike the requests to take judicial notice. As such, this Court should strike the requests for judicial notice because Appellants have not established the facts or sources were part of the district court’s decision and many of the facts stem from the existence of other cases.

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WHEREFORE, Breckenridge respectfully requests this Court strike Appellants requests to take judicial notice.

Respectfully submitted this 10th day of November, 2021.

By /s/ Alex R. Velto

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Property Fund 2016, LLC*

CERTIFICATE OF SERVICE

I certify that I am an employee of HUTHISON & STEFFEN, PLLC and that on this date **RESPONDENT BRECKENRIDGE PROPERTY FUND 2016, LLC'S MOTION TO STRIKE REQUESTS TO TAKE JUDICIAL NOTICE** was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

Tiffany & Bosco, P.A.
Ace C. Van Patten
Kevin S. Soderstrom
10100 W. Charleston Blvd, Suite 220
Las Vegas, NV 89135

And via U.S. Mail to:

Leo Kramer
Audrey Kramer
2364 Redwood Road
Hercules, CA 94547

DATED this 12th day of November, 2021.

By: */s/ Kelli Radnothy*

An Employee of Hutchison & Steffen, PLLC