

Case No. \_\_\_\_\_

**In the Supreme Court of Nevada**

TRUDI LEE LYTLE and JOHN ALLEN LYTLE, as  
trustees of the Lytle Trust,

Petitioners,

*vs.*

THE EIGHTH JUDICIAL DISTRICT COURT of  
the State of Nevada, in and for the County of  
Clark; and THE HONORABLE TIMOTHY C.  
WILLIAMS, District Judge,

Respondents,

*and*

SEPTEMBER TRUST, DATED MARCH 23, 1972;  
GERRY R. ZOBRIST AND JOLIN G. ZOBRIST, as  
trustees of the GERRY R. ZOBRIST AND JOLIN G.  
ZOBRIST FAMILY TRUST; RAYNALDO G. SANDO-  
VAL AND JULIE MARIE SANDOVAL GEGEN, as  
Trustees of the RAYNALDO G. AND EVELYN A.  
SANDOVAL JOINT LIVING AND DEVOLUTION  
TRUST DATED MAY 27, 1992; DENNIS A. GEGEN  
and JULIE S. GEGEN, husband and wife, as  
joint tenants, ROBERT Z. DISMAN; and YVONNE  
A. DISMAN,

Real Parties in Interest.

Electronically Filed  
Apr 11 2022 03:29 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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**PETITIONERS' APPENDIX**

**VOLUME 6**

**PAGES 1251-1500**

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DANIEL F. POLSENBERG (SBN 2376)  
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## CERTIFICATE OF SERVICE

I certify that on April 11, 2022, I submitted the foregoing “Petitioners’ Appendix” for filing *via* the Court’s eFlex electronic filing system. Electronic notification will be sent to the following:

Kevin B. Christensen  
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7740 W. Sahara Avenue  
Las Vegas, Nevada 89117

Christina H. Wang  
FIDELITY NATIONAL LAW GROUP  
8363 W. Sunset Road, Suite 120  
Las Vegas, Nevada 89113

*Attorneys for Real Parties in Interest  
September Trust, dated March 23,  
1972, Gerry R. Zobrist and Jolin G.  
Zobrist, as trustees of the Gerry R. Zo-  
brist and Jolin G. Zobrist Family  
Trust, Raynaldo G. Sandoval and Ju-  
lie Marie Sandoval Gegen, as trustees  
of the Raynaldo G. and Evelyn A.  
Sandoval Joint Living and Devolution  
Trust dated May 27, 1992, and Dennis  
A. Gegen and Julie S. Gegen, husband  
and wife, as joint tenants*

*Attorneys for Real Parties in Interest  
Robert Z. Disman and Yvonne A. Dis-  
man*

I further certify that I served a true and correct copy of this document by hand delivery, to the following:

The Honorable Timothy C. Williams  
Eighth Judicial District Court Judge, Department XVI  
Regional Justice Center  
200 Lewis Ave., Las Vegas, NV 89155

*Respondent*

/s/ Jessie M. Helm  
An Employee of Lewis Roca Rothgerber Christie LLP

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### Case Information: 79753

<b>Short Caption:</b>	LYTLE VS. DISMAN	<b>Court:</b>	Supreme Court
<b>Lower Court Case(s):</b>	Clark Co. - Eighth Judicial District - A747800	<b>Related Case(s):</b>	73039, 76198, 77007, 79776
<b>Disqualifications:</b>		<b>Classification:</b>	Civil Appeal - General - Other
<b>Replacement:</b>		<b>Case Status:</b>	Briefing Reinstated
<b>To SP/Judge:</b>		<b>Panel Assigned:</b>	Panel
<b>Oral Argument:</b>		<b>SP Status:</b>	Exempt
<b>Submission Date:</b>		<b>Oral Argument Location:</b>	
		<b>How Submitted:</b>	

### Party Information

### Due Items

### Docket Entries

Date	Type	Description	Pending?	Document
10/07/2019	Filing Fee	Filing Fee due for Appeal. (SC)		
10/07/2019	Notice of Appeal Documents	Filed Notice of Appeal. Appeal docketed in the Supreme Court this day. (SC)		19-41336
10/07/2019	Notice/Outgoing	Issued Notice to Pay Supreme Court Filing Fee. No action will be taken on this matter until filing fee is paid. Due Date: 10 days. (SC)		19-41349
10/11/2019	Filing Fee	Filing Fee Paid. \$250.00 from Nationwide Legal Nevada. Check no. 212204. (SC)		
10/11/2019	Notice/Outgoing	Issued Notice of Referral to Settlement Program. This appeal may be assigned to the settlement program. Timelines for requesting transcripts and filing briefs are stayed. Docketing Statement mailed to counsel for appellant - due: 21 days. (SC).		19-42208

10/14/2019	Settlement Notice	Issued Notice: Exemption from Settlement Program. It has been determined that this appeal will not be assigned to the settlement program. Appellant(s) 14 days transcript request form; 120 days opening brief. (SC)	19-42354
10/22/2019	Notice/Incoming	Filed Substitution of Counsel (Lewis Roca Rothgerber Christie LLP in place of Gibbs, Giden, Locher, Turner, Senet & Wittbrodt as counsel for Appellants). (SC)	19-43711
01/03/2020	Motion	Filed Appellants' Motion for Extension of Time to File Docketing Statement and Transcript Request. (SC)	20-00353
01/03/2020	Docketing Statement	Filed Docketing Statement Civil Appeals. (SC)	20-00354
01/03/2020	Transcript Request	Filed Certificate of No Transcript Request. (SC)	20-00356
01/14/2020	Order/Procedural	Filed Order Granting Motion. Appellant's motion for an extension of time to file the docketing statement and transcript request form is granted. The docketing statement and certificate of no transcript request were filed on January 3, 2020. (SC)	20-01729
02/10/2020	Motion	Filed Appellants' Motion for Extension To File Opening Brief and Appendix. (SC)	20-05566
02/11/2020	Notice/Outgoing	Issued Notice Motion/Stipulation Approved. Appellants' Opening Brief and Appendix due: March 12, 2020. (SC)	20-05620

Combined Case View

# EXHIBIT Q

# EXHIBIT Q

# Nevada Appellate Courts

## Appellate Case Management System

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### Case Information: 79776

Short Caption:	LYTLE VS. BOULDEN	Court:	Supreme Court
Lower Court Case(s):	Clark Co. - Eighth Judicial District - A747800	Related Case(s):	73039, 76198, 77007, 79753
Disqualifications:		Classification:	Civil Appeal - General - Other
Replacement:		Case Status:	Briefing Reinstated
To SP/Judge:	10/18/2019 / Kunin, Israel	Panel Assigned:	Panel
Oral Argument:		SP Status:	Completed
Submission Date:		Oral Argument Location:	
		How Submitted:	

### Party Information

### Due Items

### Docket Entries

Date	Type	Description	Pending?	Document
10/09/2019	Filing Fee	Filing Fee due for Appeal. (SC)		
10/09/2019	Notice of Appeal Documents	Filed Notice of Appeal. Appeal docketed in the Supreme Court this day. (SC)		19-41857
10/09/2019	Notice/Outgoing	Issued Notice to Pay Supreme Court Filing Fee. No action will be taken on this matter until filing fee is paid. Due Date: 10 days. (SC)		19-41864
10/15/2019	Filing Fee	E-Payment \$250.00 from Richard E. Haskin		
10/15/2019	Notice/Outgoing	Issued Notice of Referral to Settlement Program. This appeal may be assigned to the settlement program. Timelines for requesting transcripts and filing briefs are stayed. Docketing Statement mailed to counsel for appellant - due: 21 days. (SC).		19-42579
10/18/2019	Settlement Notice			19-43248

		Issued Notice: Assignment to Settlement Program. Issued Assignment Notice to NRAP 16 Settlement Program. Settlement Judge: Israel Kunin. (SC).	
10/22/2019	Notice/Incoming	Filed Substitution of Counsel (Lewis Roca Rothgerber Christie LLP in place of Gibbs, Giden, Locher, Turner, Senet & Wittbrodt for Appellants). (SC)	19-43713
11/08/2019	Settlement Program Report	Filed ECAR/Not Appropriate for Settlement Program. This case is not appropriate for mediation. (SC)	19-45997
11/12/2019	Settlement Order/Procedural	Filed Order Removing From Settlement Program, Reinstating Briefing, and Directing Appellants to File the Docketing Statement. This appeal is removed from the settlement program. Appellants: 14 days transcript request; 90 days opening brief and appendix. Docketing Statement due: 10 days. (SC).	19-46329
11/22/2019	Docketing Statement	Filed Docketing Statement Civil Appeals. (SC)	19-47959
11/26/2019	Transcript Request	Filed Request for Transcript of Proceedings. Transcripts requested: 3/21/18, 4/4/18, and 5/2/18. To Court Reporter: Not given. (SC)	19-48432
02/10/2020	Motion	Filed Motion for Extension of Time to File Opening Brief and Appendix. (SC)	20-05567
02/11/2020	Notice/Outgoing	Issued Notice - Motion Approved. Appellant's Opening Brief and Appendix due: March 11, 2020. (SC)	20-05617

Combined Case View

# EXHIBIT R

# EXHIBIT R

Electronically Filed  
9/14/2017 3:48 PM  
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1 **ORD**

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3 Nevada State Bar # 11592  
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9 Attorneys for Plaintiff  
10 JOHN ALLEN LYTLE and TRUDI LEE  
11 LYTLE, as Trustees of the Lytle Trust

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 JOHN ALLEN LYTLE and TRUDI LEE LYTLE,  
15 as Trustees of the Lytle Trust,

16 Plaintiff,

17 v.

18 ROSEMERE ESTATES PROPERTY OWNERS'  
19 ASSOCIATION; and DOES 1 through 10,  
20 inclusive,

21 Defendants.

CASE NO. A-15-716420-C  
Dept.: XXX

**ORDER GRANTING SUMMARY  
JUDGMENT**

22 PLEASE TAKE NOTICE that on May 10, 2016, the Court heard Plaintiffs JOHN ALLEN  
23 LYTLE and TRUDI LYTLE, as Trustees of the Lytle Trust (hereinafter "Plaintiff" or the "Lyttles")  
24 MOTION FOR SUMMARY JUDGMENT in the above-captioned matter, filed on September 14,  
25 2016. After considering the First Amended Complaint, deemed filed by Order of this Court on April  
26 7, 2016, the Motion for Summary Judgment, the Declaration of Trudi Lytle, and evidence submitted  
27 therewith, and hearing oral argument, and no opposition having been filed by Defendant and  
28 Counterclaimant ROSEMERE ESTATES PROPERTY OWNERS ASSOCIATION ("Defendant"),  
the Court grants Plaintiffs' Motion for Summary Judgment.

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

1  
2 **I. FINDINGS OF FACT**

3 1. At all relevant times, Plaintiff has owned real property located at 1930 Rosemere  
4 Court, Las Vegas, Nevada, Assessor Parcel No. 163-03-313-009, which was and is part of Rosemere  
5 Estates ("Rosemere Estates").

6 2. Rosemere Estates consists of nine (9) properties, which originally were sold as  
7 undeveloped lots.

8 3. As an owner of one (1) of nine (9) lots, the Plaintiff represents 11% of the voting  
9 power.

10 4. Rosemere Estates is governed by the community's CC&Rs, which were drafted by  
11 the Developer, and dated January 4, 1994 (the "CC&Rs").

12 5. The CC&Rs created a "property owners' committee" ("Owners Committee").

13 6. On February 25, 1997, the Owners Committee, unanimously formed "Rosemere  
14 Estates Property Owners' Association" (the "Association") on February 25, 1997, a NRS 82 non-  
15 profit corporation, for the purpose of acting as a limited purpose association pursuant to Nevada  
16 Revised Statutes, Chapter 116.

17 7. Each property within Rosemere Estates is part of the Association.

18 8. The Owners Committee has consisted of three members, a President, Secretary and  
19 Treasurer.

20 9. The Association held Board elections every three (3) years through March 2010.

21 10. Each election cycle, homeowners would be invited to submit applications to run for  
22 the Board. Thereafter, election forms would be distributed, and an election would take place  
23 wherein three (3) Board members were elected.

24 11. The last election took place on March 24, 2010.

25 12. Presently, there is no sitting and acting Board for the Association.

26 ///

27 ///

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## II. CONCLUSIONS OF LAW

### A. Summary Judgment Standard

1. Summary judgment shall be rendered in favor of a moving party if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. NRCP Rule 56(c).

2. "Summary Judgment is appropriate and shall be rendered forthwith when the pleadings and other evidence on file demonstrate that no 'genuine issue as to any material fact [remains] and that the moving party is entitled to judgment as a matter of law.'" Wood v. Safeway, 121 Nev. Adv. Op. 73, 121 P.3d, 1026, 1029 (2005)(quoting NRCP 56(c)). In Wood, the Nevada Supreme Court rejected the "slightest doubt" standard from Nevada's prior summary judgment jurisprudence, Id. at 1037, and adopted the summary judgment standard which had been articulated by the United States Supreme Court in its 1986 Trilogy: Celotex Corp. v. Catrett, 477 U.S. 317 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986); and Matsushita Electrical Industrial Company v. Zenith Radio Corporation, 475 U.S. 574 (1986).

3. The application of the standard requires the non-moving party to respond to the motion by "Set[ting] forth specific facts demonstrating existence of a genuine issue for trial." Wood, 121 p.3d at 1031. This obligation extends to every element of every claim made, and where there is a failure as to any element of a claim, summary judgment is proper. Barnettler v. Reno Air, Inc., 114 Nevada 441, 447, 956, P2d. 1382, 1386 (1998).

4. The Nevada Supreme Court held that "Rule 56 should not be regarded as a 'disfavored procedural shortcut' but instead as an integral important procedure which is designed 'to secure just, speedy and inexpensive determination in every action.'" Wood, 121, p.3d at 1030 (quoting Celotex, 477 U.S. at 327). In Liberty Lobby, the U.S. Supreme Court noted that:

"Only disputes over facts that might affect the outcome of the suit under governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted.

Id. (quoting Liberty Lobby, 477 U.S. at 247-48).

1           **B.     The District Court Has The Authority To Order An Election**

2           5.     The Association is a *limited purpose association* per NRS 116. While a limited  
3 purpose association is not restricted by all of the provisions of Chapter 116, a limited purpose  
4 association must have a Board of Directors. NRS 116.1201, 116.31083, 116.31152.

5           6.     Pursuant to the provisions of Chapter 116 applicable to limited purpose associations,  
6 the Board must conduct noticed meetings at least once every quarter, review pertinent financial  
7 information, discuss civil actions, revise and review assessments for the common area expenses,  
8 establish adequate reserves, conduct and publish a reserve study, and maintain the common areas as  
9 required. NRS 116.31083 – 116.31152, 116.31073.

10          7.     Further, the CC&Rs require the Board to oversee and conduct the maintenance of  
11 defined common areas.

12          8.     Chapter 116 does not provide for a method of elections for a limited purpose  
13 association Board. However, a Board must exist and, as a consequence, so must elections. See  
14 generally NRS 116.1201, 116.31083, 116.31152.

15          9.     While Chapter 116 is silent, Chapter 82, provides needed guidance in this regard.  
16 NRS 82.286 states that “[i]f a corporation has members entitled to vote for the election of directors,  
17 or for the election of delegates who vote for the election of directors...the directors or delegates of  
18 every corporation must be chosen at the annual meeting of the members or delegates, to be held on a  
19 date and at a time and in the manner provided for in the bylaws, by a plurality of the votes cast at the  
20 election. If for any reason the directors are not elected pursuant to NRS 82.271 or 82.276 or at the  
21 annual meeting of the members or delegates, they may be elected at any special meeting of the  
22 members which is called and held for that purpose.”

23          10.    Further, if a non-profit corporation fails to conduct an election, as required, the  
24 directors then in office maintain their respective positions until an election takes place, as required  
25 by NRS 82.296. See NRS 82.301.

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11. If the corporation fails or refuses, as is the case here, to hold an election within 18 months after the last election, "the district court has jurisdiction in equity, upon application of any one or more of the members of the corporation representing 10 percent of the voting power of the members entitled to vote for the election of directors or for the election of delegates who are entitled to elect directors..." NRS 82.306.

12. Here, there has been no Board election for well over six (6) years. Further, the Board directors abandoned their positions in 2013.

13. Plaintiff, as the owner of one of the nine lots, represents 11% of the voting power. Thus, Plaintiff may apply to the District Court to hold an election, as Plaintiff has done so in this action.

14. When interpreting a statute, legislative intent "is the controlling factor." Robert E. v. Justice Court, 99 Nev. 443, 445, 664 P.2d 957, 959 (1983). The starting point for determining legislative intent is the statute's plain meaning. Id. When a statute "is clear on its face, a court cannot go beyond the statute in determining legislative intent." Id.; see also State v. Catanio, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004). But when "the statutory language lends itself to two or more reasonable interpretations," the statute is ambiguous, and we may then look beyond the statute in determining legislative intent. Catanio, 120 Nev. at 1033, 102 P.3d at 590. Internal conflict can also render a statute ambiguous. Law Offices of Barry Levinson v. Milko, 124 Nev. 355, 367, 184 P.3d 378, 387 (2008).

15. To interpret an ambiguous statute, we look to the legislative history and construe the statute in a manner that is consistent with reason and public policy. Great Basin Water Network v. State Eng'r, 126 Nev. —, —, 234 P.3d 912, 918 (2010); see also Moore v. State, 122 Nev. 27, 32, 126 P.3d 508, 511 (2006); Robert E., 99 Nev. at 445–48, 664 P.2d at 959–61.

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1           16.     The Legislature's intent is the primary consideration when interpreting an ambiguous  
2 statute. Cleghorn v. Hess, 109 Nev. 544, 548, 853 P.2d 1260, 1262 (1993). When construing an  
3 ambiguous statutory provision, "this court determines the meaning of the words used in a statute by  
4 examining the context and the spirit of the law or the causes which induced the [L]egislature to enact  
5 it." Leven v. Frey, 123 Nev. 399, 404, 168 P.3d 712, 716 (2007). In conducting this analysis, "[t]he  
6 entire subject matter and policy may be involved as an interpretive aid." Id. (internal quotation  
7 marks omitted). Accordingly, a court will consider "the statute's multiple legislative provisions as a  
8 whole." Id.

9           17.     Chapter 116 is ambiguous with respect to the election of Board for a limited purpose  
10 association. While a Board is required, the election process normally required for a Board is not  
11 included in the limited purpose association statutory framework. See generally NRS 116.1201,  
12 116.31083, 116.31152.

13           18.     In 1997, the Nevada Legislature passed Senate Bill 314 (SB 314), and in 1999, the  
14 Legislature expanded legislation in Senate Bill 451 (SB 451), to provide protection, rights, and  
15 obligations of homeowners living in common interest communities, known as the Common-Interest  
16 Ownership Act, presently set forth in Chapter 116. SB 451 included several additional provisions  
17 intended to protect homeowners' rights to serve on an association's board and elect those board  
18 members, including 2-year terms, notification, secret balloting, proxies and public voting.

19           19.     Further, SB 451 offered additional protections regarding the financial accountability  
20 of the Board of Directors. See generally NRS 116.31038, 31151, 31152.

21           20.     There is no question that these additional financial safeguards and requirements of the  
22 board apply to a limited purpose association. However, the legislature did not include any election  
23 protocol for the limited purpose association. The Court is tasked with resolving this obvious  
24 ambiguity.

25           21.     The Court has concluded in this matter that the election must proceed in the manner  
26 in which elections always have been held by the Association, every three (3) years.

27           22.     The Court grants Plaintiff's First Cause of Action for Declaratory Relief that an  
28 election must be held pursuant to NRS 82.271, 82.276, and 82.306.

23. Plaintiff has provided good cause for this Court to order that the election be administered by a neutral third party selected by Plaintiff, and the neutral shall be paid for by the Association after the election is held and directors put in place.

### III. JUDGMENT

#### IT IS HEREBY ADJUDGED AND DECREED

1. The Association shall hold an election within ninety (90) days from the date of this order.

2. Plaintiff is directed to retain a neutral third party, either a licensed community manager or attorney, to administer the election, which shall include all items required of a homeowners' election, including, but not necessarily limited to, the preparation and collection of nomination forms, preparation, mailing and collective of ballots, and counting of ballots at a duly notice Association election meeting. The neutral third party is ordered to look to NRS 116.31034 for guidance in the administration of the election.

3. The Association shall pay the neutral third party for its efforts in administering the election after the election takes place and directors take office.

4. This Court shall retain jurisdiction until this Order has been fully complied with, including but not limited to, the election has occurred, a Board is sitting, and the neutral third party has been paid by the Association.

5. Plaintiff is the prevailing party in this litigation and is ordered to submit a separation application for attorneys' fees and costs.

IS SO ORDERED this 13 day of Sept, 2017.

  
HONORABLE JERRY A. WIESE  
District Court Judge, Dept. XXX

1 DATED: September 8, 2017

GIBBS GIDEN LOCHER TURNER  
SENET & WITTBRODT LLP

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3  
4 By: \_\_\_\_\_

Richard E. Haskin, Esq.

Nevada State Bar # 11592

7450 Arroyo Crossing Parkway, Suite 270

Las Vegas, Nevada 89113-4059

Attorneys for Plaintiff

JOHN ALLEN LYTLE and TRUDI LEE LYTLE, as

Trustees of the Lytle Trust

GIBBS GIDEN LOCHER TURNER SENET & WITTBRODT LLP

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# EXHIBIT S

# EXHIBIT S

# ROSEMERE ESTATES HOMEOWNERS ASSOCIATION

Financial Account for Period 6-5-07 to 7-1-08  
[Note correction on entries 6-4 and 6-5 of last Account]

Check #:	Date:	Item:	Inc:	Exp:	Balance:
				On 6-1-07:	\$152.14
	6-4-07	Kearl loan to Association	\$1,300		\$1,452.14
	6-6	Kearl [\$500 Dues/\$200 loan to Association]	700		2,152.14
114	6-5	Santoro et al [attorney fee]		\$1,259.55	\$892.59
115	6-5	Fed-Ex / Kinko		53.44	839.15
116	6-5	State Farm Insurance		450.00	389.15
117	6-10	LV Water		11.68	377.47
118	6-27	Nevada Power		20.15	357.32
119	6-27	Embarq (phone)		26.89	330.43
	7-3	\$500 Dues [lots: #1,3,5,7,8 &9]	\$3,000		3,745.43
	7-30	\$500 Dues: Lot #2	500		3,830.43
120	7-3	County Recorder		52.00	3,778.43
121	7-4	Karen Kearl (reim. Office supplies)		151.97	3,626.46
122	7-17	LV Water		9.79	3,616.67
123	7-17	Embarq		26.88	3,589.79
124	7-20	Nevada Power		26.30	3,563.49
125	8-10	S. Kearl (reim. loan of 6-4)		2,000.00	1,563.49
126	8-10	LV Water		33.67	1,529.82
127	8-10	Karen Kearl (reim. loan of 2-16)		200.00	1,329.82
128	8-30	Nevada Power		26.39	1,303.43
129	9-13	LV Water		30.82	1,272.61
130	9-13	Embarq		26.88	1,245.73
	9-20	\$500.00 Assessment [Lots: #1,3,4,5,&7]	\$2,500		3,745.73
	9-21	\$500 Assessment Lot #8	500		4,245.73
131	9-27	S. Kearl (reim. Kinko)		23.79	4,221.94
132	9-27	Nevada Power		26.30	4,195.64
133	10-12	LV Water		16.32	4,179.32
	10-12	\$500.00 Assessment Lot #2	\$500		4,679.32
134	10-15	Embarq		26.87	4,652.45
135	10-15	U.S. Post Office (stamps)		41.00	4,611.45
136	11-1	Nevada Power		26.31	4,585.14
137	11-10	LV Water		16.05	4,569.09
138	11-26	Embarq		26.87	4,542.22
139	11-26	Nevada Power		30.33	4,511.89
	12-13	Lot #6 (dues/assessment/fees/int.)	\$1,500		6,011.89
140		VOID			
141	12-15	LV Water		15.67	5,996.22
142	12-16	Embarq		26.87	5,969.35

Check#:	Date:	Item:	Inc:	Exp:	Balance:
143	12-20	Nevada Power		32.23	\$5,937.12
144	12-20	Innovative Access Control (gate maint.)		255.09	5,682.03
145	1-10-08	Embarq		26.84	5,655.19
146	1-10	Ombudsman – Fee		27.00	5,628.19
147	1-10	Secretary of State – Fee		25.00	5,603.19
148	1-15	LV Water		5.39	5,597.19
149	1-20	Nevada Power		31.92	5,565.88
150	2-20	Nevada Power		30.62	5,535.26
151	2-20	Embarq		28.47	5,506.79
152	2-20	LV Water		12.33	5,494.46
153	3-10	State Farm Insurance		450.00	5,044.46
154	3-10	Office Depot – (toner, files, supplies)		283.20	4,761.26
155	3-15	LV Water		14.06	4,747.20
156	3-15	Embarq		28.47	4,718.73
157	3-30	Nevada Power		29.22	4,689.51
158	4-15	Embarq		28.51	4,661.00
159	4-15	LV Water		11.93	4,649.07
160	5-1	Nevada Power		29.52	4,619.55
161	5-2	Sams Club (Assoc. Mtg. Refreshments)		50.00	4,569.55
162	5-15	LV Water		12.19	4,557.36
163	5-20	Embarq		28.51	4,528.85
164	5-20	Nevada Power		28.46	4,500.39
165	6-20	LV Water		14.99	4,485.40
166	6-20	Nevada Power		27.91	4,459.49
167	6-20	Embarq		28.51	4,428.98

# ROSEMERE ESTATES HOMEOWNERS ASSOCIATION

Financial Records for Period 7-1-08 to 1-1-09

Check #:	Date:	Item:	Inc:	Exp:	Balance:
					\$4,428.98
168		VOID			
169	7-15	LV Water		\$ 32.71	\$4,396.29
170	7-15	Embarq [telephone]		28.50	4,367.77
171	7-20	Nevada Power		27.63	4,340.14
172	8-12	LV Water		36.11	4,304.03
173	8-15	Embarq		28.50	4,275.53
174	9-1	Nevada Power		26.67	4,248.86
175	9-4	S. Kearl – stationary supplies		82.26	4,166.60
	9-4	Binder for Lot #6	\$100		4,266.60
176	9-10	LV Water		30.33	4,236.27
177	9-15	Embarq		28.50	4,207.77
	9-19	\$10,000/unit Assessment: Sandoval, Haehn			
		Kearl, Zobrist, McCumber	50,000		54,207.77
	9-24	Lytle [partial payment of 9-19-07			
		Assessment/Annual Dues]	500		54,707.77
178	9-24	Nevada Power		25.89	54,681.88
179	10-10	Santoro, Driggs, et al – Legal Fees	50,000.00		4,681.88
180	10-10	S. Kearl – Painting supplies (Home Depot			
		for wall/graffiti repair)	81.48		4,600.40
181	10-15	K. Kearl – Office Supplies (CostCo)		23.56	4,576.84
182	10-15	LV Water		36.32	4,540.52
183	10-30	K. Kearl – File Cabinet – office supplies		217.44	4,323.08
184	10-30	Embarq		28.40	4,294.68
185	10-30	Nevada Power		30.71	4,263.97
186	11-12	LV Water		27.13	4,236.84
	11-13	\$10,000 Assessment: Boulden	10,000		14,236.84
187	11-15	Embarq		28.42	14,208.42
188	11-25	Nevada Power		30.40	14,178.02
189	12-10	Secretary of State		25.00	14,153.02
190	12-20	Embarq		28.42	14,124.60
191	12-20	Mesquite Lawn Service (replacement of			
		valves, timer, pipes – clean palms, etc.)	760.00		13,364.60
192	12-20	LV Water		40.06	13,324.54
193	12-20	State of Nevada		50.00	13,274.54
194	12-26	Nevada Power		31.50	\$13,243.04

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# ROSEMERE ESTATES HOMEOWNERS ASSOCIATION

## FINANCIAL ACCOUNTS

**January 2008 thru June 2009**

Check #:	Date:	Item:	Inc:	Exp:	Balance:
<b>2008:</b>					<b><u>\$5,682.03</u></b>
145	1-10	Embarq		\$26.84	\$5,655.19
146	1-10	Ombudsman fee		27.00	5,628.19
147	1-10	Secretary of State fee		25.00	5,603.19
148	1-15	LV Water		5.39	5,597.19
149	1-20	Nevada Power		31.92	5,565.88
150	2-20	Nevada Power		30.62	5,535.26
151	2-20	Embarq		28.47	5,506.79
152	2-20	LV Water		12.33	5,494.46
153	3-10	State Farm Insurance		450.00	5,044.46
154	3-10	Office Depot		283.20	4,761.26
155	3-15	LV Water		14.06	4,747.20
156	3-15	Embarq		28.47	4,718.73
157	3-30	Nevada Power		29.22	4,689.51
158	4-15	Embarq		28.51	4,661.00
159	4-15	LV Water		11.93	4,649.07
160	5-1	Nevada Power		29.52	4,619.55
161	5-2	Sams Club (mtg. refreshments)		50.00	4,569.55

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162	5-15	LV Water	12.19	4,557.36
163	5-20	Embarq	28.51	4,528.85
164	5-20	Nevada Power	28.46	4,500.39
165	6-20	LV Water	14.99	4,485.40
166	6-20	Nevada Power	27.91	4,459.49
167	6-20	Embarq	28.51	4,428.98
168	VOID			
169	7-15	LV Water	32.71	4,396.27
170	7-15	Embarq	28.50	4,367.77
171	7-20	Nevada Power	27.63	4,340.14
172	8-12	LV Water	36.11	4,304.03
173	8-15	Embarq	28.50	4,275.53
174	9-1	Nevada Power	26.67	4,248.86
175	9-4	Office Depot	82.26	4,166.60
		Lot #6 Binder	\$100.00	4,266.60
176	9-10	LV Water	30.33	4,236.27
177	9-15	Embarq	28.50	4,207.77
	9-19	\$10,000 assessment: Sandoval, Haehn, Kearl, Zobrist and McCumber	\$50,000.00	54,207.77
	9-24	Partial payment of 2007 Dues: Lytle	\$500.00	54,707.77
178	9-24	Nevada Power	25.89	54,681.88
179	10-10	Santoro, Driggs atty fees	\$50,000.00	4,681.88
180	10-10	Home Depot (stucco/paint)	81.48	4,600.40
181	10-15	CostCo (office supplies)	23.56	4,576.84

182	10-15	LV Water	36.32	4,540.52
183	10-30	Office Depot	217.44	4,323.08
184	10-30	Embarq	28.40	4,294.68
185	10-30	Nevada Power	30.71	4,263.97
186	11-12	LV Water	27.13	4,236.84
	11-13	\$10,000 assessment: Boulden	\$10,000.00	14,236.84
187	11-15	Embarq	28.42	14,208.42
188	11-25	Nevada Power	30.40	14,178.02
189	12-10	Secretary of State fee	25.00	14,153.02
190	12-20	Embarq	28.42	14,124.60
191	12-20	Mesquite Landscaping	760.00	13,364.60
192	12-20	LV Water	40.06	13,324.54
193	12-20	State of Nevada (certification fee)	50.00	13,274.54
194	12-26	Nevada Power	31.50	13,243.04

**2009:**

195	1-5	Office Depot	219.31	13,023.73
196	1-22	NRED – Omb. fee	27.00	12,996.73
197	1-22	Embarq	29.96	12,966.77
198	1-22	LV Water	31.59	12,935.18
199	2-1	Nevada Energy (Power)	31.37	12,903.81
200	2-20	LV Water	32.71	12,871.10
201	2-20	Embarq	29.96	12,841.14
202	2-22	Nevada Energy	31.69	12,809.45

203	3-1	Office Depot	17.17	12,792.28
204	3-10	State Farm Insurance	450.00	12,342.28
205	3-15	LV Water	29.71	12,312.57
206	3-15	Embarq	29.96	12,282.61
	4-7	Lot #6 Assessment and late fee:	\$11,500.00	23,782.61
207	4-7	Office Max	98.03	23,684.58
208	4-8	Nevada Energy	31.13	23,653.45
209	4-9	Copy Doc (copier repair)	120.37	23,533.08
210	4-15	LV Water	26.32	23,506.76
211	4-16	Embarq	30.01	23,476.75
212	4-17	Esquire (Lytle Depositions)	\$1,323.45	22,153.30
213	4-22	Nevada Energy	28.30	22,125.00
214	5-7	LV Water	29.92	22,095.08
215	5-20	Embarq	30.01	23,476.75
216	5-20	Nevada Energy	25.99	22,039.08
217	6-10	Santoro, Driggs atty fees	\$12,000.00	10,039.08
218	6-10	LV Water	29.51	10,009.57
219	6-15	Embarq	30.01	9,979.56
220	6-16	Kinko's	41.22	9,938.34
221	6-20	Nevada Energy	28.97	<u>\$9,909.37</u>

# ROSEMER ESTATES HOMEOWNERS ASSOCIATION

## FINANCIAL ACCOUNTS

July 2009 thru December 2009

Check #:	Date:	Item:	Inc:	Exp:	Balance:
	6-20				9,909.37
222	7-12	LV Water		35.06	9,874.31
223	7-12	Santoro, Driggs, et al -- legal fees		5,000.00	4,874.31
224	7-16	Office Max -- supplies		73.84	4,800.47
225	7-22	NV Energy		24.54	4,775.93
226	7-22	Embarq		29.92	4,746.01
227	7-29	Office Max -- supplies		133.30	4,612.71
228	8-12	LV Water		32.31	4,580.40
	8-29	\$7,000 assessments: Sandoval, Heahn, Kearl, Zobrist, McCumber		35,000	39,580.40
229	8-29	NV Energy		20.57	39,559.83
230	8-29	Embarq		29.95	39,529.88
231	8-29	US Post Office -- stamps		44.00	39,485.88
232	8-31	Santoro, Driggs, et al -- legal fees		35,000.00	4,485.88
	9-14	Marge Boulden		7,000	11,485.88
233	9-14	LV Water		32.71	11,453.17
234	9-16	Embarq		30.01	11,423.16
235	9-21	Santoro, Driggs, et al -- legal fees		7,000.00	4,423.16
236	9-21	Kinko's		51.86	4,371.30

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237	9-21	NV Energy	21.21	4,350.09
238	10-13	LV Water	29.71	4,320.38
239	10-20	Embarq	29.99	4,290.39
240	10-20	NV Energy	21.02	4,269.37
241	11-20	LV Water	32.31	4,237.06
242	11-20	NV Energy	27.85	4,209.21
	11-20	\$5,000 loan to HOA: Sandoval, Haehn, Kearn, Zobrist (\$10,000: \$5,000 on behalf of McCumber)		
			\$25,000	29,209.21
243	11-21	Santoro, Driggs, et al – legal fees	25,000.00	4,209.21
244	11-21	Century Link (Embarq)	29.99	4,179.22
	12-8	McCumber deposit to replace \$5,000 from Zobrist (see 11-20 above)	\$5,000.00	9,179.22
245	12-8	Gerry Zobrist – refund	5,000.00	4,179.22
246	12-16	Century Link (Embarq)	29.99	4,149.23
247	12-16	LV Water	29.71	4,119.52
248	12-20	NV Energy	12.95	4,106.57

# EXHIBIT T

# EXHIBIT T

## NOTICE OF SPECIAL ASSOCIATION MEETING

of the

### ROSEMERE ESTATES PROPERTY OWNERS ASSOCIATION

A special meeting of the Rosemere Estates Property Owners Association has been called. Please refer to the attached Agenda for the list of meeting topics.

The special meeting will take place on:

MONDAY, SEPTEMBER 15, 2008 AT 7:00 PM AT: 1901 ROSEMERE COURT, LAS  
VEGAS, NV. 89117.

Additionally, this serves as special notice that at this meeting the Association will consider commencing a civil action by the Association against the Lytle Trust for violations of the Association Declaration and in response to the Lytle Trust's claims against the Association.

All Members are encouraged to attend for a discussion of the topics listed in the attached meeting Agenda. Additionally, any member may request copies of the minutes from this meeting and may speak to the association or the executive board about this meeting.

# EXHIBIT U

# EXHIBIT U

THE ROSEMERE ESTATES PROPERTY OWNERS ASSOCIATION  
AGENDA FOR  
SPECIAL MEMBERSHIP MEETING  
TO BE HELD AT: 1901 ROSEMERE COURT, LAS VEGAS, NV 89117  
SEPTEMBER 15, 2008, 7:00 P.M.

REVISED AGENDA

- I. CALL THE MEETING TO ORDER
- II. ESTABLISH QUORUM OF MEMBERS - In order for the quorum requirement to be satisfied, thirty percent (30%) of the Voting Membership must attend the meeting or return their ballots or proxies. See Bylaws, Article III, Section 3.9 and NRS 116.3109(1).

If the meeting cannot be held because a quorum is not present, then the Members present at the meeting may adjourn the meeting of the Membership to a time that is not less than 48 hours or more than 30 days from the date of the meeting. At the subsequent meeting, a quorum shall be deemed to be present if the number of Members of the Sub-Association who are present in person or by ballot or proxy at the beginning of the subsequent meeting equals or exceeds 20 percent of the total number of voting members of the association; however, if the number of members deemed present in person, by ballot, or by proxy still does not meet or exceed the 30% required by the Bylaws (as discussed above), action may be taken only on those matters that were included as items on the agenda of the original meeting. See NRS 116.3109(2).

III. TOPICS TO BE CONSIDERED:

- A. Lytle Trust/Rosemere Association Arbitration: Consideration of the Lytle proposal to enter into binding arbitration in the ADR Program of the Nevada Real Estate Division to resolve all disputes between the Lytle Trust and the Association including Case No. IS-07-1641 before the Office of the Ombudsman.
- B. Korras General Proxy: Consideration of the June 5, 2007, General Proxy signed by Chris Korras.
- C. Operating and/or reserve budget: Consideration and discussion of the preparation and distribution of an operating budget and reserve budget by the Association from July 1, 2007 through July 18, 2008.
- D. Financial statements: Consideration and discussion of the distribution of financial statements by the Association during the period of July 1, 2007 through July 18, 2008.
- E. Civil action against the Lytle Trust: Consideration of potential civil action against the Lytle Trust by the Association including enforcement of the Declaration as well as

other claims relating to actions brought by the Lytle Trust against the Association. Action may be taken on this item.

- F. Assessments:  $1/9^{\text{th}}$  of ninety-thousand dollars (\$90,000) per unit in conjunction with litigation in the Lytle Trust actions. Action may be taken on this item.
- G. Outstanding Assessments: Consideration of lien foreclosures on outstanding assessments. Action may be taken on this item.

IV. TOPICS ON WHICH ACTION MAY BE TAKEN AT THIS MEETING:

- A. Civil action against the Lytle Trust as discussed in item "E".
- B. Assessment of  $1/9^{\text{th}}$  of ninety-thousand dollars (\$90,000) per unit for common legal fees and expenses as discussed in item "F".
- C. Institution of foreclosure proceedings for unpaid assessments as discussed in item "G".

- V. MEMBERSHIP OPEN FORUM: Period of time devoted to Members comments and discussion of the considered topics, subject to the reasonable limitations adopted by the Board of Directors at the start of the open forum period. No action may be taken on any item at this meeting unless the item itself has been specifically included on this agenda as one in which action may be taken.

- VI. VOTE ON TOPICS WHERE ACTION MAY BE TAKEN – A majority of the votes cast by Members at a duly held meeting at which a quorum is present shall constitute approval of the Members and prevail. See Bylaws, Article III, Section 3.12.

- VII. ADJOURNMENT

# EXHIBIT V

# EXHIBIT V

Oct. 28. 2010 5:05PM

No. 4568 P. 8/23

001281

ROSEMERE ESTATES  
1661 ROSEMERE CT  
LAS VEGAS, NV 89117-2081

294

84-707443812 FAX  
8432761847

7-30-16

Pay to the  
Order of

Henry D. Johnston, Ltd.

\$ 7,310.00

SEVEN THOUSAND THREE HUNDRED TEN AND NO/100

Dollars

1

10/26/16



Wells Fargo Bank, N.A.  
Nevada  
wellsfargo.com

For

LEGAL FEES AND ARBITRATION

Johanna McCumber

⑆321270742⑆ 863274134⑆ 00294

001281

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# EXHIBIT W

# EXHIBIT W

Oct. 28. 2010 5:06PM

No. 4568 P. 14/23

ROSEMEERE ESTATES  
1891 ROSEMEERE CT  
LAS VEGAS, NV 89117-2001

292

84-7074/2212 282  
PP 12741547

7/28/2010

Pay to the Order of LEACH TOMAS - n Song & GRUCHOW - \$ 10,000.00

TEN THOUSAND AND  $\frac{NO}{100}$  \_\_\_\_\_ Dollars



Wells Fargo Bank, N.A.  
Member FDIC  
wellsfargo.com

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Retainin

Johnnie Mc Cumber

13212707420 8632741347 00292

# EXHIBIT X

# EXHIBIT X

Date: 02/28/2012

# Detail Transaction File List Leach Johnson Song & Gruchow

Page

Client	Trans Date	Trmkr	H Check P Number	Tcode/ Task Code	Stmt.# Rate	Hours to Bill	Amount		R
Client ID 866.001 Rosemere Estates Property Owners Association									
866.001	07/14/2010	RR	A	1	160.00	0.30	48.00	Initial meeting with Mr. Anderson and Mr. Gruchow regarding Rosemere Estates, timeline and possible representation.	AR
866.001	07/14/2010	KG	A	1	275.00	0.80	220.00	Telephone call with Mr. and Mrs. McCumber regarding case facts, issues and engagement	AR
866.001	07/15/2010	RR	A	1	160.00	0.70	112.00	Conference with Kirby Gruchow regarding background; left message with Orville McCumber; phone conference with Orville McCumber of BOD.	AR
866.001	07/16/2010	RR	A	1	160.00	0.80	128.00	Multiple phone conferences with Orville McCumber addressing proposed course of action with arbitration in light of discovery deadline; scheduled meeting with BOD	AR
866.001	07/16/2010	KG	A	1	275.00	0.80	220.00	Strategy conference with Mr. Reed arbitration and discovery headlines; telephone call with client regarding issues and strategy; prior Rosemere counsel issues and strategy and meeting with client	AR
866.001	07/19/2010	RR	A	1	160.00	0.10	16.00	Coordinated initial conference with partners with BOD for retention as counsel.	AR
866.001	07/20/2010	RR	A	1	160.00	1.80	288.00	Received and reviewed additional information regarding matter before supreme court; meeting with BOD.	AR
866.001	07/20/2010	SA	A	1	275.00	2.00	550.00	Review materials supplied by client; Meeting with Board of Directors	AR
866.001	07/22/2010	RR	A	1	160.00	0.20	32.00	Review file for status of matter; analyze course of action.	AR
866.001	07/23/2010	RR	A	1	160.00	3.30	528.00	Commenced review and analysis of file, including but not limited review of governing documents, claim form, response to claim form, supreme court briefs, order by Ara Shirlinlan in prior action; NAS lien, board minutes.	AR
866.001	07/26/2010	RR	A	1	160.00	3.20	512.00	Received and reviewed multiple correspondence from Orville McCumber requesting advice regarding meeting; drafted analysis of relevant notice requirements per NRS Chapter 116 and requested additional information; email to Jason Smith requesting any and all information regarding prior action; commenced additional review of file including bylaws, rules and regulations, response form and request of consolidation and opposition to same; reviewed NRED Control No 09-33 for analysis of claim preclusion.	AR
866.001	07/26/2010	JL	A	1	275.00	0.30	82.50	Conference with Mr. Reed regarding factual background, emergency meeting and budget issues	AR
866.001	07/26/2010	SA	A	1	275.00	2.00	550.00	Receive and review email from Orville McCumber; Email to Mr. McCumber; Long telephone conference with Jason Smith; Continue reviewing file;	AR
866.001	07/27/2010	RR	A	1	160.00	2.30	368.00	Received and reviewed letter from Scann, opposing counsel; drafted letter to Scann addressing same, delivered draft of same to Mr. Anderson for review and comment; phone conference with Orville McCumber regarding letter and meeting; held additional phone conference with Orville McCumber addressing meeting and requested copy of Notice; prepared documents for Ms. Guralny who was to attend meeting.	AR
866.001	07/27/2010	NG	A	16	245.00	2.50	612.50	Office conference with Sean Anderson and Ryan Reed regarding Board Meeting (.3); substantive analysis of governing documents and NRS 116 regarding meeting (.3); prepare for meeting (.5); travel to and attend meeting (1.4).	AR
866.001	07/27/2010	SA	A	1	275.00	1.40	385.00	Receive numerous emails from Jason Smith; Begin reviewing voluminous documents attached thereto	AR
866.001	07/28/2010	RR	A	1	160.00	3.20	512.00	Received and reviewed copy of notice of	AR

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ate: 02/28/2012

# Detail Transaction File List Leach Johnson Song & Gruchow

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Client	Trans Date	Trmkr	H P	Check Number	Tcode/ Task Code	Stnt# Rate	Hours to Bill	Amount	Re
Client ID 866.001 Rosemere Estates Property Owners Association									
866.001	07/28/2010	SA	A		1	275.00	1.30	357.50	special meeting and attached agenda; reviewed discovery order; commenced additional review of file including letter from NRED addressing NRS 116.3102; reviewed numerous letters from Dr. Keart and comments; numerous correspondence with Gerry Zobrist regarding status of matter and request for file; sent email of representation to Zobrist; to retain file, sent runner to obtain same; phone conference with Arbitrator who will issue order on new deadlines for this matter, all of which have been extended.
866.001	07/29/2010	RR	A		1	160.00	0.10	16.00	Receive and review correspondence from Susan Scann objecting to special meeting; Conference with Nicole Guralny; Telephone conference with Dee Newell; Continue reviewing documents provided by Jason Smith
866.001	07/29/2010	SA	A		1	275.00	0.70	192.50	received and reviewed email from Orville McCumber requesting status of Arbitration phone conference.
866.001	08/03/2010	SA	A		1	275.00	0.40	75.92	Receive and review correspondence from counsel for Lyles and attached early Arbitration Production of Documents and documents attached thereto
866.001	08/03/2010	RR	A		1	160.00	0.80	88.35	Receive and review email from Orville McCumber; Email to Mr. McCumber
866.001	08/06/2010	RR	A		1	160.00	3.90	430.68	Commenced preparation of documents for exchange on August 11, as requested in arbitrator order.
866.001	08/09/2010	RR	A		1	160.00	0.30	33.13	Received and reviewed arbitrator discovery order; reviewed all documents provided by Zobrist; drafted email to McCumber requesting information with attached discovery order; reviewed Claimant initial disclosures.
866.001	08/10/2010	SA	A		1	275.00	0.70	132.87	Receive and review numerous correspondence from O. McCumber with attached minutes and notice of lien.
866.001	08/10/2010	RR	A		1	160.00	0.60	66.26	Review documents to be produced pursuant to Arbitrator's Order; Review Witness List
866.001	08/10/2010	SA	A		1	275.00	0.30	56.94	Finalized initial production per arbitration order.
866.001	08/11/2010	SA	A		1	275.00	1.40	265.73	Receive and review correspondence from Orville McCumber and attached document regarding meeting; conference with Mr. Reed regarding same
866.001	08/12/2010	SA	A		1	275.00	0.10	18.98	Telephone conference with Susan Scann, counsel for Lyles; Review, edit and finalize Witness List; Review, revise and finalize Initial Production of Documents;
866.001	08/16/2010	RR	A		1	160.00	4.90	541.13	Receive and review correspondence from Arbitrator Dee Newell regarding billing; Receive and review Amended Witness List from Susan Scann
866.001	08/18/2010	NG	A		16	245.00	0.70	118.37	Receive and review correspondence from Susan Scann and attached documents
866.001	08/18/2010	RR	A		1	160.00	0.90	99.39	Drafted Interrogatories and Requests for Production per arbitration order.
866.001	08/19/2010	RR	A		1	160.00	0.90	99.39	Office conference with Mr. Reed regarding Interrogatories and Responses to Production(3); substantive analysis of Complaint(4).
866.001	08/20/2010	RR	A		1	160.00	1.80	198.78	Left phone message with Susan Scann; email to Scann regarding same; phone conference with Susan Scann regarding disclosures; email to client requesting documents.
									Reviewed discovery order and drafted email to BOD requesting draft chronology of events per order; phone conference with BOD regarding NAS, minutes, chronology; phone conference with NAS regarding file for Lyle file; received email from NAS with attached file.
									Reviewed all documents provided by NAS;

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Date: 02/28/2012

# Detail Transaction File List Leach Johnson Song & Gruchow

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Client	Trans Date	Trmkr	H Check P Number	Tcode/ Task Code	Stmt# Rate	Hours to Bill	Amount	
Client ID 866.001 Rosemere Estates Property Owners Association								
866.001	08/23/2010	RR	A	1	160.00	1.00	110.43	commenced draft of chronology per discovery order. Drafted letter to opposing counsel addressing issues related to discovery order and refinement of dispute to two issues.
866.001	08/24/2010	RR	A	1	160.00	1.10	121.48	Receive and review multiple letter from Scann regarding disclosures; reviewed documents provided us by Orville McCumber; directed Ms Hoss to commence supplement.
866.001	08/25/2010	SA	A	1	275.00	0.80	151.85	Review documents produced by NAS and Mr. McCumber for production to Susan Scann; Revise and edit correspondence to Ms. Scann
866.001	08/25/2010	RR	A	1	160.00	2.40	265.04	Received and reviewed amended discovery order; reviewed documents for first supplement; drafted letter to Susan Scann in response to Aug 23 letter and requested refined issues and amended discovery; reviewed NRS 116 for applicable provisions as each relates to loans by BOD.
866.001	08/25/2010	JL	A	1	275.00	0.20	37.96	Review NRS 116 regarding director loaning money to HOA; conference with Mr. Reed regarding same
866.001	08/26/2010	SA	A	1	275.00	0.50	84.90	Telephone conference with Arbitrator Dee Newell; Receive and review correspondence from Susan Scann, counsel for Lyles; Additional telephone conference with Ms. Newell regarding scheduling discovery conference
866.001	08/26/2010	RR	A	1	160.00	3.60	397.56	Drafted and sent email to O. McCumber regarding revised discovery order; confirmed applicable dates with Dee Newell; phone conference with opposing counsel regarding scheduling of conference call; received and reviewed letter from Scann regarding production; commenced draft of Motion to Stay.
866.001	08/27/2010	RR	A	1	160.00	2.30	254.00	Received and reviewed claimants revised issues .4; received and reviewed multiple letters from Scann regarding production and request for conference call with Arbitrator .4; continued draft of Motion to Stay. 1.5
866.001	08/30/2010	RR	A	1	160.00	6.70	739.91	Receive and review correspondence from Orville McCumber regarding demand letter and \$5,000 check from Lyles; receive and review correspondence from Susan Scann regarding request to amend discovery; receive and review letter from Thomas Harper regarding discovery dispute; finalized draft of Motion to Stay or alternatively to Dismiss, pulled exhibits and provided same to Mr. Anderson; phone conference with Arbitrator and opposing counsel regarding discovery dispute and deadline.
866.001	08/31/2010	SA	A	1	275.00	0.30	58.94	Exchange emails with Orville McCumber
866.001	09/01/2010	SA	A	1	275.00	0.50	137.50	Receive and review email from Orville McCumber; Email to Mr. McCumber; Telephone conference with Mr. and Mrs. McCumber; Conference with Mr. Reed regarding discovery issues; Receive and review email from Debbie Kluska of NAS and attached contract;
866.001	09/02/2010	SA	A	1	275.00	1.00	275.00	Receive and review contract provided by NAS; Directions to Mr. Reed regarding same; Receive and review email from Mr. McCumber; Email to Mr. McCumber; Telephone conference with Mr. and Mrs. McCumber; Receive and review Arbitration Telephone Conference and Order Issued by Arbitrator; Receive and review Notice of Taking Deposition of Person Most Knowledgeable for NAS
866.001	09/02/2010	RR	A	1	160.00	1.10	176.00	Continued review of file; continued response to request for production.

ate: 02/28/2012

# Detail Transaction File List Leach Johnson Song & Gruchow

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Client	Trans Date	Tmkr	H Check P Number	Tcode/ Task Code	Stmt# Rate	Hours to Bill	Amount		Re
Client ID 866.001 Rosemere Estates Property Owners Association									
866.001	09/03/2010	RR	A	1	160.00	0.40	64.00	Finalized Motion to Dismiss, reviewed exhibits for proper order.	AR(
866.001	09/03/2010	SA	A	1	275.00	1.20	330.00	Review and finalize Motion to Dismiss or Stay	AR(
866.001	09/07/2010	NG	A	1	245.00	1.70	416.50	Substantive analysis of NRS 116 regarding executive session(.3); conference with John Leach regarding the same(.1);prepare email to client regarding audio tape(.1); prepare letter to Lytle attorney regarding request from Lytle(1.2).	AR(
866.001	09/07/2010	JL	A	1	275.00	0.20	55.00	Conference with Ms. Guralny regarding retention and meeting with counsel in executive session	AR(
866.001	09/07/2010	SA	A	1	275.00	0.70	182.50	Conferences with Ms. Guralny; Review correspondence prepared by Ms. Guralny to Susan Scann; Draft email to Board	AR(
866.001	09/08/2010	SA	A	1	275.00	0.50	137.50	Receive and review email from Orville McCumber and attached documents; Telephone conference with Mr. McCumber regarding same	AR(
866.001	09/09/2010	RR	A	1	160.00	2.30	368.00	Continued responses to discovery; phone conference with Jason Smith; reviewed HOA Initial disclosures in prior NRED action as provided by Mr. Smith.	AR(
866.001	09/09/2010	SA	A	1	275.00	0.50	137.50	Receive and review email and attached pleadings from Jason Smith	AR(
866.001	09/10/2010	RR	A	1	160.00	1.60	256.00	Finalized request for production list to be sent to Kearn and McCumber; finalized request for admissions; continued responses to ROGS.	AR(
866.001	09/10/2010	SA	A	1	275.00	0.30	82.50	Review and edit questions to be sent to Dr. Kearn regarding arbitration	AR(
866.001	09/13/2010	RR	A	1	160.00	3.00	480.00	Phone conference with BOD regarding requests for discovery; commenced review of additional information provided us from Kearn; continued response to discovery, finalized draft of response to request for production.	AR(
866.001	09/14/2010	RR	A	1	160.00	0.50	80.00	Receive and review email from McCumber; finalized documents for response to request for production.	AR(
866.001	09/14/2010	SA	A	1	275.00	1.30	367.50	Receive and review Claimants' Supplemental List of Witnesses and Second Supplemental Document List; Receive and review email from Orville McCumber and attached documents; Listen to audio tape of 7/27/10 meeting; Discussion with Ms. Hoss regarding production of document and responses to discovery	AR(
866.001	09/15/2010	RR	A	1	160.00	0.90	144.00	Receive and review claimants supplemental list and documents; conference with Mr. Anderson regarding additional item; phone conference with Scann regarding deposition of NAS.	AR(
866.001	09/15/2010	SA	A	1	275.00	2.40	660.00	Begin reviewing responses to written discovery propounded by Lytle; Telephone conference with offices of Susan Scann, counsel for Lytle; Conferences with Ryan Reed; Receive and review email from Presline Alexander, assistant for Susan Scann, and attached documents to be used in deposition of NAS representative; Receive and review correspondence from Susan Scann	AR(
866.001	09/16/2010	RR	A	1	160.00	5.50	880.00	Conference with Scann regarding deposition of NAS; traveled to deposition of NAS, NAS did not show; finalized discovery, responses to request for admissions, request for production of documents and ROGS.	AR(
866.001	09/16/2010	SA	A	1	275.00	4.70	1,292.50	Multiple telephone conferences with Arbitrator Dee Newell regarding scheduling issues; Review, revise and finalize Responses to Requests for Admission, Requests for Production, and Interrogatories; Conferences with Mr. Reed regarding deposition of NAS representative; Receive and review	AR(

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ate: 02/28/2012

# Detail Transaction File List Leach Johnson Song & Gruchow

Page:

Client	Trans Date	Trmkr	H Check P Number	Tcode/ Task Code	Stmnt# Rate	Hours to Bill	Amount	Re
Client ID 866.001 Rosemere Estates Property Owners Association								
866.001	09/17/2010	SA	A	1	275.00	1.60	440.00 voluminous fax from Dee Newell and attachments Receive and review Lytle's Third Supplemental Disclosure and documents attached thereto; Receive and review Lytle's responses to First Set of Interrogatories and First Set of Requests for Production of Documents; Email to Orville McCumber; Receive and review email from Mr. McCumber; Receive and review Claimants' Responses to First Set of Requests for Production of Documents	ARC
866.001	09/17/2010	RR	A	1	160.00	0.20	32.00 Receive and review fax from arbitrator regarding deadlines regarding Motion to Dismiss.	ARC
866.001	09/21/2010	RR	A	1	160.00	4.10	656.00 Receive and review Claimant Opposition to Motion to Dismiss; drafted reply to opposition; review letter from Scann regarding lien filed by Kears; multiple phone conferences with Scann regarding scheduling of depositions and arbitrator phone conference.	ARC
866.001	09/21/2010	SA	A	1	275.00	0.80	220.00 Receive and review correspondence from Susan Scann; Receive and review Claimants' Opposition to Motion to Dismiss or, in the Alternative, for Stay of Proceedings; Receive and review Arbitrator's Bill	ARC
866.001	09/22/2010	SA	A	1	275.00		0.00 Revise and substantially edit Reply to Opposition; Supplemental research regarding extraneous points raised in Lytle Opposition; Review and revise lengthy correspondence to Susan Scann	ARC
866.001	09/22/2010	RR	A	1	160.00	1.30	208.00 Receive and review multiple voice mails from Susan Scann; drafted letter to opposing counsel addressing content of September 21, 2010, reviewed arbitrator bill.	ARC
866.001	09/23/2010	RR	A	1	160.00	6.40	1,024.00 Prepared documents for arbitrator telephone conference; phone conference with arbitrator and opposing counsel; commenced arbitration brief; research regarding NRS 116.4116 and NAC 116.405; phone conference with BOD.	ARC
866.001	09/23/2010	JL	A	1	275.00	0.40	110.00 Conference with Mr. Anderson and Mr. Reed regarding pending legal issues, status and enforceability of HOA liens	ARC
866.001	09/23/2010	SA	A	1	275.00	1.20	330.00 Prepare for and participate in telephonic conference with Arbitrator Newell and counsel for Claimants; Receive and review Arbitrator's Decision on Motion to Dismiss or Stay	ARC
866.001	09/24/2010	RR	A	1	160.00	1.30	208.00 Analysis of NRS 116.4117 with NRS 116.2103; receive and review additional NAS documents provided by BOD regarding member; phone call with Scann regarding subpoena of non BOD members.	ARC
866.001	09/27/2010	RR	A	1	160.00	6.10	976.00 Receive and review email authorizing this office to release lien; had release of lien prepared; commenced arbitration brief.	ARC
866.001	09/27/2010	SA	A	1	275.00	0.40	110.00 Review and revise Notice of Release of Lien; Prepare Supplement to 16.1 Disclosures	ARC
866.001	09/28/2010	RR	A	1	160.00	7.50	1,200.00 Continued draft of arbitration brief; provided and drafted response to each issues (identifying all responsive documents and exhibits, provided same to Mr. Anderson; phone conference with McCumbers, set pre hearing meeting; phone call from Susan Scann, email to BOD regarding request that we accept service of process.	ARC
866.001	09/28/2010	NG	A	1	245.00	1.80	441.00 Substantive analysis of governing documents on NRS 116 regarding common expenses and assessments (.9); draft insert regarding the same (.9).	ARC
866.001	09/28/2010	JL	A	1	275.00	0.20	55.00 Review NRS 116 regarding applicability of NRS 116.4117 to small communities;	ARC

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ata: 02/28/2012

# Detail Transaction File List Leach Johnson Song & Gruchow

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Client	Trans Date	H Check Tmkr P Number	Tcode/ Task Code	Stnt# Rate	Hours to Bill	Amount	Re
Client ID 866.001 Rosemere Estates Property Owners Association							
866.001	08/28/2010	SA A	1	275.00		0.00	ARI
866.001	09/28/2010	SA A	1	275.00	2.50	687.50	ARI
866.001	09/29/2010	SA A	1	275.00	4.00	1,100.00	ARI
866.001	09/29/2010	RR A	1	180.00	1.90	304.00	ARI
866.001	09/30/2010	RR A	1	160.00	3.90	624.00	ARI
866.001	09/30/2010	SA A	1	275.00	2.70	742.50	AR
866.001	10/01/2010	RR A	1	180.00	0.90	144.00	AR
866.001	10/01/2010	SA A	1	275.00	0.50	137.50	AR
866.001	10/05/2010	RR A	1	180.00	0.20	32.00	AR
866.001	10/06/2010	RR A	1	160.00	2.30	368.00	AR
866.001	10/06/2010	SA A	1	275.00	2.50	687.50	AR
866.001	10/08/2010	RR A	1	180.00	3.80	608.00	AR
866.001	10/08/2010	SA A	1	275.00	3.20	880.00	AR
866.001	10/11/2010	RR A	1	160.00	0.30	48.00	AR
866.001	10/15/2010	RR A	1	180.00	1.20	192.00	AR
866.001	10/18/2010	RR A	1	160.00	0.90	144.00	AR

001290

Date: 02/28/2012

# Detail Transaction File List Leach, Johnson, Song & Gruchow

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Client	Trans Date	Trmkr	H Check P	Number	Tcode/ Task Code	Stmt # Rate	Hours to Bill	Amount	Re
Client ID 866.001 Rosemere Estates Property Owners Association									
866.001	10/18/2010	SA	A		1	275.00	0.50	137.50	AR
								conference call with arbitrator regarding the same.	
								Review correspondence from Tom Harper dated October 11 and 15; Draft response to Mr. Harper regarding same; Telephone conference with Arbitrator Newell regarding necessity of another telephone conference	
866.001	10/19/2010	RR	A		1	160.00	1.10	176.00	AR
								Drafted and sent status to McCumber regarding Harpers requests for additional documents; reviewed First Supp and response to Claimant Request No 18; email and phone conference with Jason Smith regarding same.	
866.001	10/19/2010	SA	A		1	275.00	1.20	330.00	AR
								Conference with Mr. Reed regarding missing meeting; Receive and review email from Jason Smith regarding same; Review file for information regarding loan for attorneys' fees cited in Harper's letter; Conference with Mr. Reed regarding same	
866.001	10/20/2010	RR	A		1	160.00	1.10	176.00	AR
								Phone conference with Orville and Johnie McCumber regarding request from Harper; receive and review letter from Harper regarding discovery request; review email provided from McCumbers with attached documents.	
866.001	10/20/2010	SA	A		1	275.00	1.00	275.00	AR
								Receive and review all bank and accounting documents provided by McCumbers; Receive and review deposition transcript for Dr. Kearn	
866.001	10/22/2010	RR	A		1	160.00	0.40	84.00	AR
								Drafted and sent letter to Dee Newell regarding Harpers request for additional documents.	
866.001	10/25/2010	SA	A		1	275.00	0.30	82.50	AR
								Review and evaluate documents provided by client for production to opposing counsel as a result of supplemental request for documents	
866.001	10/26/2010	RR	A		1	160.00	0.30	48.00	AR
								Printed financial ledger, identified possible issues and provided same to Mr. Anderson for review and comment.	
866.001	10/26/2010	SA	A		1	275.00	0.30	82.50	AR
								Receive and review additional documents provided by McCumbers; Conference with Mr. Reed regarding amending Admissions	
866.001	10/27/2010	RR	A		1	160.00	3.00	480.00	AR
866.001	10/27/2010	SA	A		1	275.00	2.60	715.00	AR
								Continued Arbitration Brief; Conferences with Ryan Reed; Begin preparation for Arbitration Hearing	
866.001	10/28/2010	RR	A		1	160.00	4.70	752.00	AR
								Continued with arbitration brief; phone conference with Dee Newell regarding Harper Request; reviewed documents and amendment to be sent to Harper; reviewed and responded to email from Orville regarding billing.	
866.001	10/28/2010	SA	A		1	275.00	3.00	825.00	AR
								Telephone conference with Dee Newell; Review documents to be provided to Tom Harper; Continue preparation for arbitration hearing; Draft direct examination for Dr. Kearn;	
866.001	11/01/2010	RR	A		1	160.00	2.10	336.00	AR
								Receive and review email from Orville McCumber with attached bank statements, reviewed same, continued arbitration brief.	
866.001	11/01/2010	SA	A		1	275.00	3.70	1,017.50	AR
								Multiple conferences with Mr. Reed; Continue working on Arbitration Brief; Telephone conference with Orville McCumber; Begin preparing exhibit list and direct and cross examinations; Telephone conference with Dee Newell; Receive and review correspondence from Tom Harper	
866.001	11/02/2010	SA	A		1	275.00	3.80	990.00	AR
								Receive and review Tom Harper correspondence dated November 1, 2010; Revise and edit correspondence to Dee Newell in response to Tom Harper correspondence dated November 1, 2010; Continue research and drafting portions of Arbitration Brief	
866.001	11/02/2010	RR	A		1	160.00	1.80	288.00	AR
								Receive and review Zobrist and Stone subpoena; drafted response to letter issued from Harper November 1, 2010;	

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Client	Trans Date	Trmkr	H Check P Number	Tcode/ Task Code	Stmt # Rate	Hours to Bill	Amount	Ri
Client ID 866.001 Rosemere Estates Property Owners Association								
866.001	11/03/2010	RR	A	1	180.00	4.80	768.00	AR
866.001	11/03/2010	SA	A	1	275.00	2.00	550.00	AR
							reviewed bank statements provide from Mr. McCumber.	
							Continued draft of arbitration brief.	AR
							Continue working on exhibit list and direct and cross examinations; Receive and review subpoenas issued for NAS and Gary Zobrist	AR
866.001	11/04/2010	SA	A	1	275.00	6.00	1,375.00	AR
							Complete research and drafting Arbitration Brief; Continue reviewing documents and assembling exhibits for Arbitration hearing; In-office meeting with Board members regarding November 8 arbitration hearing;	
866.001	11/04/2010	RR	A	1	160.00	6.10	976.00	AR
							In office meeting with Mr. Kearn, Mr. and Mrs. Zobrist and Mr. & Mrs. McCumber in preparation for arbitration; finalized brief and final list of witnesses.	
866.001	11/05/2010	RR	A	1	160.00	3.90	624.00	AR
							Receive and review Claimant's 64 page arbitration brief; research on slander of title in preparation for hearing; drafted letter to Tom Harper regarding requests for exhibits; reviewed two letters from Harper regarding the same.	
866.001	11/05/2010	SA	A	1	275.00	7.50	2,062.50	AR
							Continue reviewing 64page arbitration brief submitted by Lyles; Review research conducted by Mr. Reed regarding special damages; Revise and edit correspondence to tom harper; Receive and review correspondence from tom harper; Continue reviewing files and preparing for November 8 arbitration hearing;	
866.001	11/08/2010	RR	A	1	160.00	10.10	1,616.00	AR
							Prepared for travel to and attended all day arbitration hearing.	
866.001	11/08/2010	SA	A	1	275.00	12.50	3,437.50	AR
							Continue preparation for arbitration hearing; Travel to and participate in arbitration hearing	
866.001	11/09/2010	RR	A	1	160.00	0.10	16.00	AR
							Scheduled motion for attorneys' fees and costs deadline.	
866.001	11/15/2010	RR	A	1	160.00	1.40	224.00	AR
							Receive review and respond to email from Orville regarding agent, arbitrator bill and arbitration brief; drafted motion for attorneys' fees and costs and memorandum of costs with supporting affidavit.	
866.001	11/16/2010	RR	A	1	160.00	0.50	80.00	AR
							Commence preparation for costs and fees.	
866.001	11/16/2010	SA	A	1	275.00	1.40	385.00	AR
							Telephone conference with Arbitrator Newell regarding billing issues; Receive and review email from Debbie Kluska and attached account information for Lyles; Revise and edit Motion for Attorneys' Fees and Costs	
866.001	11/17/2010	SA	A	1	275.00	1.20	330.00	AR
							Review, revise and edit Motion for Attorneys' Fees and Memorandum of Costs	
866.001	11/17/2010	RR	A	1	160.00	1.30	208.00	AR
							Receive and review email from Debbie Kluska with current NAS lien total; finalized motion for fees and costs; gathered exhibits for same, drafted letter to Dee Newell, redacted billing for motion to be provided to claimant.	
866.001	11/17/2010	SA	A	1	275.00	1.00	275.00	AR
							Revise letter to Dee Newell; Finalize Motion for Fees and Costs	
866.001	11/19/2010	RR	A	1	160.00	0.80	128.00	AR
							Receive and review letter from Tom Harper regarding motion for attorneys' fees and costs; review arbitration award and decision.	
866.001	11/19/2010	SA	A	1	275.00	1.00	275.00	AR
							Receive and review email from Tom Harper regarding Motion for Attorneys' Fees and Costs; Review and analyze Arbitration Decision and Award; Telephone conference with Arbitrator Dee Newell regarding billing issue	
866.001	11/22/2010	SA	A	1	275.00	0.40	110.00	AR
							Telephone conference with Mr. and Mrs. McCumber regarding Arbitration Decision and Award	
866.001	12/02/2010	RR	A	1	160.00	0.20	32.00	AR
							Receive and review NRED completion certificate.	

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Client	Trans Date	Tmkr	H P	Check Number	Code/ Task Code	Stmt # Rate	Hours to Bill	Amount	
Client ID 866.001 Rosemere Estates Property Owners Association									
866.001	12/08/2010	JL	A		1	275.00	0.30	82.50	Telephone conference with Attorney Christensen regarding appeal right and settlement issues; conference with Mr. Anderson regarding status and proposed course of action
866.001	12/09/2010	RR	A		1	160.00	0.50	80.00	Multiple phone conferences with BOD and Mr. Anderson regarding issues with final bill.
866.001	12/15/2010	RR	A		1	160.00	0.70	112.00	Multiple phone conferences with BOD regarding complaint filed by Lytle and meeting requirements as set forth in NRS 116.
866.001	12/15/2010	NG	A		3	245.00	0.60	147.00	Telephone conference with client and Mr. Reed regarding board meetings; agendas; litigation (.8)
866.001	12/15/2010	SA	A		1	275.00	0.80	220.00	Receive and review copy of Complaint filed by Lyles against Association; Telephone conference with Orville McCumber regarding same
866.001	12/16/2010	RR	A		1	160.00	1.80	288.00	Receive and review complaint; research regarding NRS 38.300, NRCP 9 and slander of title; conference with Mr. Anderson regarding same.
866.001	12/17/2010	RR	A		1	160.00	0.20	32.00	Drafted and sent email to BOD with attached complaint.
866.001	12/20/2010	RR	A		1	160.00	0.30	48.00	Phone conference with BOD regarding complaint, service of complaint and proposed course of action.
866.001	12/20/2010	NG	A		1	245.00	2.90	710.50	Draft and prepare notice template for general meeting (1.2); Draft and prepare Agenda for general meeting (.8); Draft and prepare Notice of Executive session (.4) Draft and prepare agenda for executive session (.4); Draft and prepare email client regarding notices (.3)
866.001	12/21/2010	RR	A		1	160.00	3.70	592.00	Commenced motion in response to complaint regarding NRS 38.330, subject matter jurisdiction, factual background and judicial estoppel.
866.001	12/21/2010	SA	A		1	275.00	0.70	192.50	Review Lytle Complaint and confer with Mr. Reed regarding Motion to Dismiss or Motion for Summary Judgment
866.001	12/30/2010	SA	A		1	275.00	0.60	165.00	Telephone conferences with Orville and Johnnie McCumber; Receive and review email from Jim Christensen, new counsel for Lyles
866.001	01/03/2011	SA	A		1	275.00	0.40	110.00	Conference with Mr. Leach regarding substitution of attorney Jim Christensen for Tom Harper and Mr. Christensen's request for settlement discussions; Telephone conference with Jim Christensen;
866.001	01/03/2011	RR	A		1	160.00	0.60	96.00	Phone conference with Orville and Johnnie McCumber regarding response to Complaint and Board Meeting; receive and review email from Mr. Christensen advising that he will be substituting as counsel for Lytle and granting extension of time to answer complaint.
866.001	01/03/2011	JL	A		1	275.00	0.30	82.50	Telephone conference with Attorney Christensen regarding substitution of counsel; conference with Mr. Anderson regarding status
866.001	01/05/2011	SA	A		1	275.00	0.40	110.00	Receive and review email from Orville McCumber; Telephone conference with Mr. and Mrs. McCumber
866.001	01/06/2011	RR	A		29	0.50	0.30	0.15	Phone conference with Orville and Johnnie McCumber regarding course of action and upcoming meeting with Jim Christensen.
866.001	01/10/2011	SA	A		1	275.00	0.40	110.00	Receive and review email from McCumbers; Receive and review attorneys' lien filed by Tom Harper;
866.001	01/10/2011	RR	A		1	160.00	0.40	64.00	Conference with Mr. Reed regarding same Receive phone call from Orville & Johnnie McCumber regarding lien placed on award by Harper; Received and reviewed Notice of a Hearing lien - email to Mr. McCumber regarding same.
866.001	01/12/2011	SA	A		1	275.00	1.40	385.00	Conference with Jim Christensen, counsel

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Client	Trans Date	Trmkr	H P	Check Number	Task/ Task Code	Unit# Rate	Hours to Bill	Amount	By
Client ID 866.001	Rosemora Estates	Property Owners Association							
866.001	01/13/2011	RR	A		3	160.00	0.20	32.00	AR
866.001	01/18/2011	RR	A		9	160.00	0.20	32.00	AR
866.001	01/18/2011	SA	A		1	275.00	0.20	55.00	AR
866.001	01/19/2011	SA	A		1	275.00	1.00	275.00	AR
866.001	01/19/2011	RR	A		3	160.00	0.50	80.00	AR
866.001	01/25/2011	RR	A		9	160.00	0.30	48.00	AR
866.001	01/26/2011	RR	A		9	160.00	0.40	64.00	AR
866.001	01/26/2011	SA	A		1	275.00	0.70	192.50	AR
866.001	01/27/2011	RR	A		3	160.00	0.30	48.00	AR
866.001	01/27/2011	NG	A		9	245.00	0.70	171.50	AR
866.001	01/27/2011	SA	A		1	275.00	0.40	110.00	AR
866.001	01/28/2011	RR	A		1	160.00	0.20	32.00	AR
866.001	02/01/2011	SA	A		1	275.00	0.50	137.50	AR
866.001	02/10/2011	RR	A		3	160.00	0.10	16.00	AR
866.001	02/16/2011	SA	A		1	275.00	0.40	110.00	AR
866.001	02/16/2011	RR	A		1	160.00	0.30	48.00	AR
866.001	03/07/2011	SA	A		9	275.00	1.20	330.00	AR
866.001	03/07/2011	RR	A		9	160.00	0.20	32.00	AR
866.001	03/14/2011	RR	A		9	160.00	0.40	64.00	AR
866.001	03/18/2011	SA	A		1	275.00	0.10	27.50	AR
866.001	03/25/2011	RR	A		9	160.00	0.40	64.00	AR
866.001	03/26/2011	SA	A		1	275.00	1.40	385.00	AR
866.001	03/31/2011	RR	A		9	160.00	0.30	48.00	AR
866.001	04/01/2011	RR	A		3	160.00	0.30	48.00	AR
866.001	04/04/2011	RR	A		8	160.00	0.30	48.00	AR

for Lyles, regarding possible settlement of matter (1.4);  
Telephone conference with Orville McCumber regarding meeting with Jim Christensen, counsel for Lyles.  
Receive and review email from Orville McCumber regarding settlement of matter and position of the Board.  
Receive and review email from Orville McCumber; Directions to Mr. Reed  
Telephone conference with McCumbers; Directions to Mr. Reed  
Telephone conference with Johnie and Orville McCumber regarding course of action to be taken.  
Receive and review opposition to Motion to Withdraw and to adjudicate lien.  
Receive and review Tom Harper's Motion to withdraw as attorney of record.  
Receive and review Tom Harper Motion to Withdraw; Telephone conference with Jim Christensen, counsel for Lyles;  
Telephone conference with Orville and Johnie McCumber regarding status of matter and proposes agenda and notice.  
Review and analyze proposed agenda and notices (2); Verify compliance with NRS 116 (3) Telephone Conference client regarding same (2)  
Receive and review email and attachments from Mr. McCumber; Conference with Ms. Guralny regarding same  
Email to Orville McCumber requesting Invoice for recorder fees.  
Telephone conference with Jim Christensen, counsel for Lyles  
Telephone conference with Orville and Johnie McCumber regarding status of matter.  
Telephone conference with Orville and Johnie McCumber;  
Phone conference with Board of Directors regarding course of action; brief discussion regarding same with Mr. Anderson,  
Receive and review email from Orville McCumber and attached notice for oral argument issued by Nevada Supreme court; Telephone conference with Mr. and Mrs. McCumber; Conference with Mr. Reed regarding drafting and answering counterclaim  
Receive and review email from Orville McCumber regarding strategies.  
Review and analyze Nevada Supreme Court Order of Oral Argument (2); Receive and review Notice of Entry of Order and Order denying Harper's Motion to Adjudicate Attorney Lien.(2)  
Receive and review email from Mr. McCumber and attachments  
Receive and review email from Orville McCumber regarding status of Answer and Counterclaim; Phone conference regarding same  
Receive and review email from Orville McCumber; Telephone conference with Board of Directors regarding status and strategy; Begin preparation of Answer and Counterclaim  
Reviewed Answer and Counterclaim; Made edits to same  
Telephone conference with Jim Christensen regarding Substitution of new counsel and Failure to Serve same  
Prepared Initial Appearance and Fee Disclosure email to board of directors regarding new counsel for the Lyles

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Client	Trans Date	Trnkr	H P	Check Number	Tcode/ Task Code	Stmt # Rate	Hours to Bill	Amount		Ru
Client ID 866.001	Rosemere Estates			Property Owners Association						
866.001	04/05/2011	SA	A		9	275.00	0.20	55.00	Review and revise correspondence to James Christensen, counsel for the Lytles	AR
866.001	04/05/2011	RR	A		8	160.00	0.40	64.00	Drafted letter to James Christensen regarding representation (.3); Edits to Same (.1)	AR
866.001	04/08/2011	RR	A		1	160.00	0.20	32.00	Directed Ms. Cybul to provide Answer and Counterclaim to board of directors	AR
866.001	04/11/2011	RR	A		9	160.00	0.10	16.00	Receive and review issue related to Counterclaim	AR
866.001	04/18/2011	SA	A		9	275.00	0.30	82.50	Review, revise and substantially edit Errata to Answer	AR
866.001	04/18/2011	RR	A		9	160.00	0.50	80.00	receive and review Substitution of Attorney; email to Orville McCumber with same, requested status of Supreme Court Hearing (.3); Compiled and executed documents regarding same	AR
866.001	04/20/2011	RR	A		9	160.00	0.90	144.00	Receive, review and respond to email from Orville McCumber (.5); Drafted 3 day Notice of Intent to take Default (.3); Edit to Response (.1)	AR
866.001	04/20/2011	SA	A		1	275.00	0.20	55.00	Review, revise and edit 3 day Notice of Intent to Take Default (.1); Review, revise and edit email to Mr. McCumber (.1)	AR
866.001	05/08/2011	SA	A		14	275.00	0.30	82.50	Conference with Mr. Reed regarding status and strategy	AR
866.001	05/08/2011	RR	A		8	200.00	0.30	60.00	Prepared 3 day Notice, directed same to be served for Lytle Counsel	AR
866.001	05/11/2011	SA	A		9	275.00	0.20	55.00	Receive and review correspondence from Robert Sullivan, counsel for Lytles	AR
866.001	05/11/2011	RR	A		9	200.00	0.30	60.00	Receive and review letter from opposing counsel regarding scheduling of Early Case Conference (.2); Finalized 3 day Notice (.1)	AR
866.001	05/13/2011	SA	A		9	275.00	0.30	82.50	Receive and review Reply to Counterclaim; Receive and review Demand for Jury Trial	AR
866.001	05/13/2011	RR	A		9	200.00	0.60	120.00	Receive and review Lytle Reply to Counterclaim (.3); Receive and review Demand for Jury Trial (.2); Receive and review certificate of Service (.1)	AR
866.001	05/20/2011	RR	A		8	200.00	0.40	80.00	Commenced document preparation for Early Case Conference; Confirmed early case conference location and time.	AR
866.001	05/24/2011	RR	A		9	200.00	0.20	40.00	continued preparation of documents for NRCP 16.1 Initial Disclosures	AR
866.001	05/25/2011	RR	A		9	200.00	0.20	40.00	Receive and review Notice of Early Case Conference	AR
866.001	05/25/2011	RR	A		8	200.00	0.50	100.00	continued preparation of documents for NRCP 16.1 Initial Disclosures; left phone message with Orville McCumber regarding Early Case Conference; Phone conference with Orville McCumber providing status	AR
866.001	06/28/2011	RR	A		8	200.00	1.50	300.00	Continued documents review of draft; 16.1 Initial disclosures prepared for and attended Early Case Conference	AR
866.001	05/27/2011	SA	A		3	275.00	0.50	137.50	Telephone conference with Orville McCumber (.5);	AR
866.001	06/07/2011	SA	A		9	275.00	0.30	82.50	Exchange emails with Orville McCumber; Review and analyze correspondence from Lytles	AR
866.001	05/08/2011	SA	A		9	275.00	0.70	192.50	Review and analyze Lytle correspondence to Dr. Sandavol; Evaluate Nevada Revised Statutes; Telephone conference with Mr. and Mrs. McCumber regarding same	AR
866.001	06/16/2011	RR	A		1	200.00	0.40	80.00	Left phone message with opposing counsel requesting Initial Disclosures (.2); Receive and review email from Orville McCumber requesting status (.2)	AR
866.001	06/17/2011	RR	A		9	200.00	0.30	60.00	Receive, review and respond to email from Orville McCumber regarding Initial Disclosures (.3)	AR
866.001	06/17/2011	NG	A		8	245.00	1.60	392.00	Prepare and draft letter to Lytles' (1.2); substantive analysis of NRS 116 regarding assessments (.4)	AR
866.001	06/27/2011	RR	A		9	200.00	0.30	60.00	Receive, review, and respond to email from Orville McCumber regarding Plaintiffs Initial Disclosures	AR

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Client	Trans Date	Trmkr	H P	Check Number	Tcode/ Task Code	Shrt# Rate	Hours to Bill	Amount		R
Client ID 866.001 Rosemere Estates Property Owners Association										
866.001	06/28/2011	RR	A		8	200.00	2.70	540.00	Continued draft of Motion for Summary Judgment; Reviewed NRS 38.330 (5)	AR
866.001	06/29/2011	RR	A		9	200.00	0.20	40.00	Provided Mr. Anderson with status of Motion for Summary Judgment (.2)	AR
866.001	06/30/2011	RR	A		10	200.00	1.80	380.00	legislative research regarding NRS 38.330; Westlaw research regarding same	AR
866.001	07/05/2011	SA	A		9	275.00	0.50	137.50	Review, revise, and edit draft Joint Case Conference Report prepared by opposing counsel	AR
866.001	07/13/2011	RR	A		9	200.00	0.30	60.00	Receive and review revised Joint Case Conference Report; Executed same; Left Message with opposing counsel regarding conduct of client (.3)	AR
866.001	07/13/2011	SA	A		1	275.00	0.50	137.50	Receive and review email from Orville McCumber and attachments from Lyles; Email to Orville; Telephone conference with Orville	AR
866.001	07/19/2011	RR	A		9	200.00	0.20	40.00	Receive and review copy of filed Joint Case Conference Report (.2)	AR
866.001	07/19/2011	SA	A		1	275.00	0.20	55.00	Receive and review Final Joint Case Conference Report from Robert Sullivan, counsel for Lyles (.2)	AR
866.001	07/22/2011	RR	A		9	200.00	0.50	100.00	Receive and review documents from Orville McCumber; drafted response to Lyle letter dated July 11, 2011 (.5)	AR
866.001	07/26/2011	DZ	A		14	125.00	0.20	25.00	Office conference with Mr. Reed re: MSJ	AR
866.001	07/25/2011	RR	A		9	200.00	4.10	820.00	Continued Motion to Dismiss ( 1.8); Research regarding slander of title and injunctive relief (2.3)	AR
866.001	07/26/2011	RR	A		3	200.00	0.40	80.00	Phone conference with Arbitrator regarding court reporter and hearing (.2); left message with opposing counsel regarding documents, after review of Early Case Conference documents (.2)	AR
866.001	07/27/2011	RR	A		1	200.00	0.20	40.00	Directed assistant to contact Mr. Harper regarding ADR hearing court reporter (.1); Receive, review, and respond to request from Mr. McCumber for copy of letter (.1)	AR
866.001	08/16/2011	RR	A		3	200.00	0.70	140.00	Tried to call Mr. McCumber (.1); Drafted status update to Mr. McCumber regarding course of action (.3); Drafted letter to opposing council regarding initial disclosure (.3)	AR
866.001	08/17/2011	RR	A		9	200.00	0.30	60.00	Receive and review phone message from Orville McCumber; Phone conference with Mr. and Mrs. McCumber regarding status of matter and Arbitration hearing transcript	AR
866.001	08/18/2011	SA	A		14	275.00	0.20	55.00	Conference with Mr. Reed regarding Motion for Summary Judgment (.2)	AR
866.001	08/22/2011	RR	A		8	200.00	2.80	560.00	Continued Motion for Summary Judgment; Reviewed arbitration transcript, drafted affidavit of Orville McCumber in Support of Motion Summary Judgment (2.8)	AR
866.001	09/13/2011	NG	A		9	255.00	0.30	76.50	Review and analyze letter from Lyle's attorney regarding various issues (.2); conference with Mr. Reed regarding the same (.1)	AR
866.001	09/15/2011	RR	A		9	200.00	0.10	20.00	Receive and review e-mail from Mr. McCumber requesting status (.1)	AR
866.001	09/15/2011	SA	A		9	295.00	2.50	737.50	Revised, review, and edit Motion for Summary Judgment and Affidavit of Orville McCumber; Exchange e-mails with Mr. McCumber (2.5)	AR
866.001	09/16/2011	RR	A		8	200.00	3.40	680.00	Commenced edits to Motion for Summary Judgment and McCumber Affidavit, additional analysis regarding slander of title (2.7); Meeting with Mr. McCumber (.7)	AR
866.001	09/16/2011	SA	A		8	295.00	1.00	295.00	Final revisions to Motion for Summary Judgment and Affidavit of Orville McCumber (1.0)	AR
866.001	09/19/2011	RR	A		8	200.00	0.90	180.00	Inputted McCumber Affidavit into Motion to Summary Judgment, finalized Motion to Summary Judgment provided draft to Mr. Anderson (.9)	AF
866.001	09/21/2011	RR	A		9	200.00	0.30	60.00	Receive and review notice of Motion; Provided status to client e-mail	AF
866.001	09/21/2011	SA	A		8	295.00	1.20	354.00	Final revisions to Motion for Summary Judgment and Affidavit of Orville McCumber (1.2)	AF

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Client	Trans Date	Trndr	H P	Check Number	Tcode/ Task Code	Stnt# Rate	Hours to Bill	Amount	R
Client ID 866.001 Rosemere Estates Property Owners Association									
866.001	09/22/2011	SA	A		9	295.00	0.50	147.50	AR
								Receive and review plaintiff's First Supplement to Early Case Conference Production of Documents and Witnesses and documents attached thereto (.5)	
866.001	09/23/2011	RR	A		9	200.00	0.60	120.00	AR
								Receive and review Plaintiff's First Supplement to Early Case Conference (.3); Receive and review letter from Hand, Page, & Sullivan regarding Lyles (.3)	
866.001	10/03/2011	JL	A		1	295.00	0.20	59.00	AR
								Conference with Mr. Anderson regarding consolidation of claims and construction penalty issues	
866.001	10/03/2011	RR	A		9	200.00	1.50	300.00	AR
								Receive and review e-mail from Mr. McCumber regarding upcoming meeting and Supreme Court e-mail; Received e-mail, Reviewed attachments which included 4 letters and Order of Court and others; Called and left message with Mr. McCumber regarding same; Phone conference with Mr. McCumber; Receive and review e-mail setting up conference for tomorrow	
866.001	10/03/2011	SA	A		9	295.00	1.80	531.00	AR
								Receive and review e-mail from Orville McCumber and numerous letters and documents from Lyles and Decision of Supreme Court; Telephone conference with Mr. and Mrs. McCumber; Continue review and analysis of documents provided by Mr. McCumber and begin formulating response (1.8)	
866.001	10/04/2011	RR	A		9	200.00	1.80	360.00	AR
								Receive and review e-mail from Orville McCumber regarding meeting with board of directors	
866.001	10/04/2011	SA	A		9	295.00	2.30	678.50	AR
								Receive and review e-mail from Orville McCumber (.1); E-mail to Mr. McCumber (.2); In office meeting with board of directors regarding status and strategy (2.0)	
866.001	10/05/2011	RR	A		9	200.00	0.10	20.00	AR
								Receive and review e-mail from Mr. McCumber advising Mr. Smith of our representation of Rosemere Estates POA (.1)	
866.001	10/05/2011	SA	A		9	295.00	0.10	29.50	AR
								Receive and review e-mail from Orville McCumber (.1)	
866.001	10/06/2011	RR	A		8	200.00	0.60	120.00	AR
								Drafted substitution of counsel (.4); Research on wiznet for who was Lyles' counsel on other matter (.2)	
866.001	10/07/2011	RR	A		9	200.00	0.10	20.00	AR
								Receive and review e-mail from Mr. Jason Smith regarding our firm representation (.1)	
866.001	10/07/2011	SA	A		9	295.00	0.30	88.50	AR
								Review, revise, and edit substitution of counsel (.2); Receive and review e-mail from Jason Smith (.1)	
866.001	10/10/2011	RR	A		9	200.00	1.40	280.00	AR
								Requested Ms. Calimpong to prepare a list of reserve specialists to provide to Mr. McCumber (.1); Drafted Notice of Non-Opposition (1.2); Receive and review executed Substitution from Jason Smith (.1)	
866.001	10/17/2011	RR	A		8	200.00	4.10	820.00	AR
								Commenced letter to Lyles in response to 5 letters issued by Lyles reviewed same (4.1)	
866.001	10/17/2011	SA	A		9	295.00	0.80	236.00	AR
								Review, revise, and edit correspondence to Lyles; Directions to Mr. Reed regarding same and Motion for Summary Judgment (.8)	
866.001	10/18/2011	JL	A		1	295.00	0.20	59.00	AR
								Conference with Mr. Reed regarding unpaid assessments, budgeting and construction penalties	
866.001	10/18/2011	RR	A		9	200.00	4.20	840.00	AR
								Revise, review, and edit letter to Lyles regarding violation letters (.3); Commenced review of Opposition to Motion for Summary Judgment (.8); Commenced Reply to Opposition (3.1)	
866.001	10/18/2011	SA	A		16	295.00	3.30	973.50	AR
								Office conference with Mr. Reed regarding Opposition to Motion for Summary Judgment and strategy on same; Review Opposition to Motion for Summary Judgment; Draft framework for Reply Brief (3.3)	

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Client	Trans Date	Trmkr	H P	Check Number	Tcode/ Task Code	Smt# Rate	Hours to Bill	Amount	Re
Client ID 866.001 Rosemere Estates Property Owners Association	866.001 10/19/2011	RR	A		8	200.00	5.30	1,060.00	ARC Continued Opposition to Motion for Summary Judgment; considerable westlaw research regarding slander of title
866.001	10/20/2011	RR	A		9	200.00	0.30	60.00	ARC Receive, review, and respond to e-mail from Mr. McCumber regarding briefs, substitution of attorney and documents under NRS 116 (.3)
866.001	10/20/2011	SA	A		9	295.00	3.00	885.00	ARC Receive and review e-mail from Orville McCumber; E-mail to Orville McCumber; Conference with Mr. Reed; Review Opposition to Motion for Summary Judgment; Begin reviewing, revising, and editing Reply to Opposition to Motion for Summary Judgment (3.0)
866.001	10/26/2011	SA	A		9	295.00	3.30	973.50	ARC Complete reviewing and editing reply to Opposition to Motion for Summary Judgment; Follow up research regarding pleading requirements for special damages and Application to Award of Attorneys Fees (3.3)
866.001	10/27/2011	RR	A		9	200.00	0.20	40.00	ARC Reviewed file for other information related to special assessments (2)
866.001	10/31/2011	RR	A		3	200.00	0.70	140.00	ARC Telephone conference with Mr. McCumber regarding letter from Lyles and course of action (.5); Receive and review message from Sullivan regarding continuing deadline on hearing on Motion for Summary Judgment (.2)
866.001	10/31/2011	SA	A		9	295.00	1.20	354.00	ARC Receive, review and analyze Notice of Entry of Reversal and Remand and attached Reversal and Remand from Nevada Supreme Court; Receive and review correspondence from Lyles to Dr. Sandoval; Telephone conference with Mr. and Mrs. McCumber (1.2)
866.001	11/02/2011	RR	A		9	200.00	0.70	140.00	ARC Advised of possibility of moving hearing to accommodate military service of Sullivan (.1); Receive and review Notice of Entry of Order on reversal and remand (.3); Telephone conference with Mr. McCumber regarding moving hearing; Attempted to contact Sullivan regarding same (.3)
866.001	11/02/2011	SA	A		3	295.00	0.40	118.00	ARC Telephone conference with Robert Sullivan, counsel with Lyles (.2); Conference with Mr. Reed (.1); Receive and review e-mail from Orville McCumber (.1)
866.001	11/03/2011	RR	A		3	200.00	0.90	180.00	ARC Telephone conference with opposing counsel and client regarding moving hearing to November 14, 2011 (.3); Receive and review proposed Stipulation and Order executed same (.2); Letter to Lyles regarding moving date in which documents available (.2); E-mail to Orville regarding same (.2)
866.001	11/04/2011	RR	A		8	200.00	0.30	60.00	ARC Finalized letter to Lyles regarding document review, executed same (.2); Receive and review e-mail from Mr. McCumber regarding time frame for related action (.1)
866.001	11/04/2011	SA	A		9	295.00	0.30	88.50	ARC Review, revise, and edit correspondence to Lyles (.2); Receive and review e-mail from Orville McCumber (.1)
866.001	11/08/2011	RR	A		1	200.00	0.20	40.00	ARC Contacted by court regarding Plaintiffs failure to affix signature to Stipulation and Order and need re-file same (.2)
866.001	11/10/2011	RR	A		8	200.00	0.40	80.00	ARC Drafted and sent e-mail to Mr. Smith requesting file (.2); Receive, review, and respond to e-mail from Mr. Smith (.2)
866.001	11/10/2011	SA	A		9	295.00	0.10	29.50	ARC Receive and review e-mail from Jason Smith (.1);
866.001	11/14/2011	RR	A		13	200.00	5.80	1,160.00	ARC Prepared for, traveled to, and attended Hearing on Motion for Summary Judgment (4.3); Telephone conference with Mr. & Mrs. McCumber regarding hearing and course of action (.3); Receive and review Plaintiffs First Supplement to Opposite to Motion for Summary Judgment; Faxed same on 11/11/2011 at 7:17 (.3);

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Client ID 866.001 Rosemere Estates Property Owners Association										
866.001	11/14/2011	SA	A		9	295.00	5.80	1,711.00		Commenced verified memo of costs (.1); Commenced draft of Order Granting Motion for Summary Judgment (.8) Receive, review, and analyze Lyles First Supplement to Opposition to Motion for Summary Judgment (.3); Prepare for, travel to, and argue Hearing on Motion for Summary Judgment (4.5); Telephone conference with Mr. and Mrs. McCumber regarding same and status (.5)
866.001	11/15/2011	RR	A		8	200.00	0.60	120.00		Edits to Order Granting Associations Motion for Summary Judgment (.3); Drafted and sent e-mail to Sullivan with draft Order for review and comment to be provided by November 18, 2011 (.3)
866.001	11/15/2011	SA	A		8	295.00	0.20	59.00		Final revisions to Order Granting Motion for Summary Judgment (.2)
866.001	11/16/2011	RR	A		8	200.00	0.30	60.00		Commenced draft of verified Memo of Costs (.3)
866.001	11/17/2011	RR	A		9	200.00	2.50	500.00		Reviewed billings for purpose of determining applicable time person for Motion for Attorney Fees (.2); Commenced application to confirm and Motion for Attorneys Fees (2.5)
866.001	11/21/2011	RR	A		9	200.00	1.10	220.00		Review and analyze e-mail from Mr. Sullivan with suggested redline edits to Order forwarded same to Mr. Anderson (.3); Requested assistant to pull minute order, if any, reviewed same (.3); Continued Motion for Attorney's fees and application to continue (.2); Directed assistant to contact Mr. Smith regarding file (.1); Receive, review and respond to e-mail from Mr. McCumber regarding Order and Motion and course of action (.2)
866.001	11/23/2011	RR	A		9	200.00	0.40	80.00		Receive and review e-mail from Santoro Driggs regarding files ready for pick up (.2); Receive and review letter from Mr. Smith confirming transfer of file (.2)
866.001	11/23/2011	SA	A		9	295.00	1.50	442.50		Receive and review correspondence from Jason Smith and begin reviewing documents provided by Mr. Smith regarding previously filed action by Lyles (1.0); Receive and review e-mail from Lyles counsel Robert Sullivan regarding revisions to Order Granting Motion for Summary Judgment (.2); Directions to Mr. Reed regarding same (.3)
866.001	11/28/2011	RR	A		8	200.00	0.50	100.00		Made edits to Order, compared to original Order as submitted, provided draft and changes to Mr. Anderson for review and comment (.3); Drafted and sent e-mail to opposing counsel regarding Order and conduct of Ms. Lyle contacting our office (.2)
866.001	11/28/2011	SA	A		8	295.00	0.20	59.00		Finalize Order granting Motion for Summary Judgment (.2)
866.001	11/29/2011	RR	A		9	200.00	0.40	80.00		Reviewed Wiznet for Register of actions (.2); Receive, review, and respond to e-mail from Mr. McCumber regarding Lyles review of records (.2)
866.001	11/30/2011	SA	A		9	295.00	1.20	354.00		Review documents for Trudi Lyle document review; E-mail to Orville McCumber; Review NRS 116 for costs of copying disputed by Ms. Lyle (1.2)
866.001	12/05/2011	RR	A		8	200.00	0.40	80.00		Finalized Memo of Costs and submitted draft of same to Mr. Anderson (.4)
866.001	12/07/2011	SA	A		9	295.00	0.50	147.50		Review, revise, and edit Verified Memorandum of Costs (.5)
866.001	12/09/2011	RR	A		9	200.00	0.20	40.00		Receive and review executed Order of Court (.2)
866.001	12/09/2011	SA	A		1	295.00	0.40	118.00		Telephone conference with Orville McCumber regarding status (.4)
866.001	12/13/2011	SA	A		1	295.00	0.50	147.50		Receive, review and analyze correspondence from Beau Sterling, counsel for Lyles in appeal and attached Notice of Association of Counsel, Motion and Order Exonerating Bond and attachments, and Memorandum of

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Client ID 866.001 Rosemere Estates Property Owners Association								
866.001	12/16/2011	RR	A	9	200.00	0.60	120.00	AR
							Appellate Costs Taxable in District Court Receive and review letter from Sterling Kerr advising us of Notice of Association of Counsel for exonerating the appeal bond; Reviewed his verification Memo of Costs, Notice of Association and Ex Parte Application (.8)	
866.001	12/16/2011	RR	A	9	200.00	0.30	60.00	AR
							Executed Verified Memo of Costs to be filed with court (.1); Receive, review, and respond to e-mail from Mr. McCumber regarding scheduling phone conference and past board of directors meeting (.2)	
866.001	12/19/2011	RR	A	9	200.00	0.90	180.00	AR
							Held phone conference with Mr. and Mrs. McCumber regarding Lytle Order and course of action (.9)	
866.001	01/04/2012	RR	P	9	200.00	0.40	80.00	
							Receive and review Lyles' Three Day Notice (.2); Contacted Mr. Sullivan to advise Answer would be submitted today (.2)	
866.001	01/05/2012	RR	P	10	200.00	0.40	80.00	
							Researched Wiznet to see if defendant filing in A-09-593497-C (.2); Receive, review, and respond to e-mail from Mr. McCumber regarding motion for Attorney's fees (.2);	
866.001	01/05/2012	SA	P	9	295.00	0.70	206.50	
							Receive, review, and analyze Lytle Motion for Relief from Judgment to Alter and Amend Judgment for Clarification of Decision and Order for Sanctions for Reconsideration and for Leave to Amend to file Supplemental Complaint (.7)	
866.001	01/06/2012	SA	P	9	295.00	1.50	442.50	
							Review, revise, and edit Motion to Confirm Arbitration Award and Motion for Attorneys Fees and costs; Finalize same for submission to court (1.5)	
866.001	01/09/2012	RR	P	9	200.00	1.20	240.00	
							Receive and review Plaintiffs Motion for Relief from Order; Commenced Opposition analysis and briefing (1.2)	
866.001	01/12/2012	SA	P	9	295.00	0.20	59.00	
							Receive, review, and analyze Application for Order Shortening Time on Motion for Reconsideration (.2)	
866.001	01/13/2012	RR	P	8	200.00	1.70	340.00	
							Commenced Omnibus Opposition to Plaintiffs Motion to Clarify and Reconsider (1.7)	
866.001	01/17/2012	RR	P	8	200.00	6.40	1,280.00	
							Continued Opposition to Plaintiffs Motion filed December 27, 2011, prepared and submitted draft of same to Mr. Anderson (6.4)	
866.001	01/18/2012	SA	P	9	295.00	3.60	1,062.00	
							Review, revise & edit opposition to Plaintiffs' motion from relief from Judgment, to alter or amend Judgment for clarification for reconsideration for leave to amend or supplement complaint; finalize same for filing and service; conferences with Mr. Reed regarding same and strategy (3.6)	
866.001	01/26/2012	RR	P	9	200.00	0.90	180.00	
							Receive and review Plaintiffs Reply in Support of Plaintiffs Motion for Relief from Judgment (.6); Provided status to Mr. McCumber regarding Motion and upcoming hearings (.3)	
866.001	01/26/2012	SA	P	9	295.00	0.60	177.00	
							Receive and review the Lytle's reply brief in support of plaintiffs' motion; conference with Mr. Reed regarding same (.6)	
866.001	01/29/2012	RR	P	8	200.00	1.10	220.00	
							Commenced preparation on hearing on Plaintiffs Motion for Reconsideration (1.1)	
866.001	01/30/2012	RR	P	54	200.00	8.10	1,820.00	
							Prepared for travel to and attended hearing on Plaintiffs Motion to Clarify, Reconsideration & Sanctions (3.8); Phone conference with board regarding outcome (.6); Receive and review Plaintiffs Opposition to Our Motion for Attorney's Fees, commence Reply (3.7)	
866.001	01/30/2012	SA	P	13	295.00	6.00	1,770.00	
							Prepare for, travel to and argue hearing on motion for reconsideration to clarify, etc. (4.2); receive, review and analyze plaintiffs' opposition to motion to confirm and for award of attorneys' fees (.6); draft framework for reply brief and directions to Mr. Reed regarding same (1.2)	

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Client	Trans Date	Trmkr	H Check P Number	Ycode/ Task Code	Stmnt# Rate	Hours to Bill	Amount		Re
Client ID 866.001 Rosemere Estates Property Owners Association									
866.001	01/31/2012	RR	P	B	200.00	5.10	1,020.00	Continued response to Opposition to Our Motion for Attorney's Fees, provided draft of same to MR. Anderson for review and comment (3.2); Drafted letter to Sullivan and Judge Bara regarding issues related to Sullivan's edits (1.9)	;
866.001	02/01/2012	RR	P	9	200.00	4.10	820.00	Receive and review letter from Attorney Sullivan threatening to file bar complaint (.3); receive and review plaintiff's first supplement to plaintiff's opposition, drafted objection and motion to strike (3.8)	;
866.001	02/01/2012	SA	P	1	295.00	0.20	59.00	Receive and review correspondence from Robert Sullivan regarding Bar Complaint; Receive and review Plaintiffs' First Supplement to Plaintiffs' Opposition; Draft framework for Objection and Motion to Strike same;	;
866.001	02/02/2012	RR	P	9	200.00	1.90	380.00	Review and edit letter to be issued to Attorney Sullivan; continued drafting of objection to and motion to strike improper first supplement, provided draft of same to Mr. Anderson (1.9)	;
866.001	02/02/2012	SA	P	1	295.00	3.60	1,062.00	Prepare response to Robert Sullivan correspondence, review and edit same; Review, revise and edit Objection to First Supplement and Motion to Strike;	;
866.001	02/03/2012	RR	P	8	200.00	0.60	120.00	Prepared proposed order denying their motion and cover letter to Attorney Sullivan with attached order (.8)	;
866.001	02/03/2012	SA	P	1	295.00	0.20	59.00	Review, revise and edit proposed Order Denying Motion	;
866.001	02/06/2012	RR	P	13	200.00	5.00	1,000.00	Prepared for, traveled to and attended hearing on motion for attorney fees, cant set matter regarding attorney fees for evidentiary hearing (3.7); telephone conference with board of directors regarding outcome of hearing and strategy moving forward (.5); prepared order granting in part and denying in part our motion to confirm and motion for attorney fees (.8)	;
866.001	02/06/2012	SA	P	1	295.00	5.00	1,475.00	Prepared for, traveled to and argued hearing on Motion for Attorneys' Fees/Motion to Confirm; Telephone conference with Board regarding hearing outcome and strategy; Directions to Mr. Reed regarding Order	;
866.001	02/08/2012	RR	P	8	200.00	0.40	80.00	Revise and edit order denying defendant application to continue granting motion for attorney fees (.2); prepared cover letter to send to opposing counsel with attached proposed order (.2)	;
866.001	02/09/2012	RR	P	9	200.00	0.30	60.00	Receive and review letter from Attorney Sullivan approving content of order denying his motion for reconsideration, executed order to be filed with court (.3)	;
866.001	02/15/2012	SA	P	1	295.00	1.20	354.00	Draft framework of Motion for Attorneys' Fees and begin reviewing billings	;
866.001	02/16/2012	RR	P	8	200.00	2.70	540.00	Commenced drafting of motion for attorney's fees (2.3); receive and review recorders transcript of January 30, 2012 hearing (.4)	;
866.001	02/27/2012	SA	P	1	295.00	3.20	944.00	Complete Motion for Attorneys' Fees and Complete reviewing billings, finalize same for filing with Court	;
Subtotal for Fees					Billable	448.10	85,614.65		
866.001	07/28/2010	KG	A	29	0.500		17.50	Conference Call RR	AR
866.001	08/06/2010	KG	A	51	0.200		67.80	Photocopy charges-Black & White	AR
866.001	08/11/2010	KG	A	23	6.500		6.50	Delivery Charge	AR
866.001	08/16/2010	KG	A	51	0.200		6.40	Photocopy charges-Black & White	AR
866.001	08/18/2010	KG	A	23	6.500		6.50	Delivery Charge	AR
866.001	08/23/2010	KG	A	53			0.61	Postage	AR
866.001	08/24/2010	KG	A	51	0.200		41.60	Photocopy charges-Black & White	AR
866.001	08/25/2010	KG	A	53			9.80	Postage	AR
866.001	09/03/2010	KG	A	53			14.70	Postage	AR
866.001	09/03/2010	KG	A	51	0.200		96.00	Photocopy charges-Black & White-480	AR
866.001	09/08/2010	KG	A	53			1.39	Postage	AR

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Client ID 866.001	Rosemere Estates Property Owners Association								
866.001	09/08/2010	KG	A		51	0.200		6.40 Photocopy charges-Black & White-32	AR
866.001	09/16/2010	KG	A		23	6.500		6.50 Delivery Charge	AR
866.001	09/16/2010	KG	A		51	0.200		22.80 Photocopy charges-Black & White -114	AR
866.001	09/22/2010	KG	A		53			0.44 Postage	AR
866.001	09/28/2010	KG	A		55	0.200		6.60 Facsimile costs -33	AR
866.001	09/29/2010	KG	A		53			0.44 Postage	AR
866.001	09/30/2010	KG	A		53			0.88 Postage	AR
866.001	10/05/2010	KG	A		23	6.500		6.50 Delivery Charge	AR
866.001	10/18/2010	KG	A		53			0.44 Postage	AR
866.001	11/02/2010	KG	A		56	0.200		2.40 Scan Copy -12	AR
866.001	11/02/2010	KG	A		55	0.200		6.60 Facsimile costs -33	AR
866.001	11/04/2010	KG	A		51	0.200		64.80 Photocopy charges-Black & White -324	AR
866.001	11/04/2010	KG	A		23	6.500		6.50 Delivery Charge	AR
866.001	11/04/2010	KG	A		23	6.500		6.50 Delivery Charge	AR
866.001	11/05/2010	KG	A		51	0.200		145.80 Photocopy charges-Black & White -728	AR
866.001	11/16/2010	KG	A		55	0.200		4.60 Facsimile costs -23	AR
866.001	12/16/2010	KG	A		51	0.200		18.80 Photocopy charges-Black & White -94	AR
866.001	03/31/2011	KG	A		51	0.200		2.00 Photocopy charges-Black & White -10	AR
866.001	03/31/2011	KG	A		53			0.81 Postage	AR
866.001	04/05/2011	KG	A		53			0.44 Postage	AR
866.001	04/05/2011	KG	A		51	0.200		0.20 Photocopy charges-Black & White -1	AR
866.001	04/05/2011	KG	A		56	0.200		0.40 Scan Copy -2	AR
866.001	04/05/2011	KG	A		55	0.200		0.20 Facsimile costs -1	AR
866.001	04/18/2011	KG	A		53			0.88 Postage	AR
866.001	04/18/2011	KG	A		51	0.200		2.00 Photocopy charges-Black & White -10	AR
866.001	04/18/2011	KG	A		55	0.200		2.00 Facsimile costs -10	AR
866.001	04/20/2011	KG	A		53			0.44 Postage	AR
866.001	05/11/2011	KG	A		51	0.200		1.20 Photocopy charges-Black & White -8	AR
866.001	05/11/2011	KG	A		53			0.44 Postage	AR
866.001	05/26/2011	KG	A		51	0.200		65.20 Photocopy charges-Black & White -328	AR
866.001	06/28/2011	KG	A		53			12.06 Postage	AR
866.001	07/22/2011	KG	A		53			11.98 Postage	AR
866.001	07/22/2011	KG	A		51	0.200		11.20 Photocopy charges-Black & White -56	AR
866.001	09/19/2011	KG	A		56	0.200		77.20 Scan Copy -386	AR
866.001	09/19/2011	KG	A		51	0.200		77.20 Photocopy charges-Black & White -386	AR
866.001	09/19/2011	KG	A		53			4.75 Postage	AR
866.001	09/22/2011	KG	A		56	0.200		0.60 Scan Copy -3	AR
866.001	09/22/2011	KG	A		51	0.200		0.60 Photocopy charges-Black & White -3	AR
866.001	09/22/2011	KG	A		53			0.44 Postage	AR
866.001	10/11/2011	KG	A		53			0.88 Postage	AR
866.001	10/11/2011	KG	A		51	0.200		1.60 Photocopy charges-Black & White -8	AR
866.001	10/11/2011	KG	A		56	0.200		0.80 Scan Copy -4	AR
866.001	10/18/2011	KG	A		53			3.36 Postage	AR
866.001	10/18/2011	KG	A		53			13.66 Postage	AR
866.001	10/18/2011	KG	A		51	0.200		14.40 Photocopy charges-Black & White -72	AR
866.001	10/27/2011	KG	A		51	0.200		3.20 Photocopy charges-Black & White -16	AR
866.001	10/27/2011	KG	A		58	0.200		3.20 Scan Copy -16	AR
866.001	11/03/2011	KG	A		56	0.200		0.40 Scan Copy -2	AR
866.001	11/04/2011	KG	A		53			12.06 Postage	AR
866.001	11/04/2011	KG	A		51	0.200		0.40 Photocopy charges-Black & White -2	AR
866.001	11/28/2011	KG	A		51	0.200		28.80 Photocopy charges-Black & White -144	AR
866.001	11/30/2011	KG	A		53			0.44 Postage	AR
866.001	01/05/2012	KG	P		51	0.200		3.20 Photocopy charges-Black & White -16	
866.001	01/06/2012	KG	P		51	0.200		9.20 Photocopy charges-Black & White -46	
866.001	01/09/2012	KG	P		53			0.88 Postage	
866.001	01/09/2012	KG	P		53			1.28 Postage	
866.001	01/09/2012	KG	P		58	0.200		1.60 Scan Copy -8	
866.001	01/13/2012	KG	P		53			5.41 Postage	
866.001	01/13/2012	KG	P		51	0.200		0.80 Photocopy charges-Black & White -3	
866.001	01/13/2012	KG	P		58	0.200		0.60 Scan Copy -3	
866.001	01/31/2012	KG	P		53			5.04 Postage	
Subtotal for Expenses						Billable	0.00	958.65	
866.001	08/26/2010	KG	A		76			9.05 Online legal research. RR	AR
866.001	09/14/2010	KG	A		79			32.43 Legal Document Solutions 71921	AR
866.001	09/21/2010	KG	A		76			4.38 Online legal research. RR	AR
866.001	09/21/2010	KG	A		76			57.41 Online legal research. RR	AR
866.001	09/22/2010	KG	A		79			64.86 Legal Document Solutions 72072 Media Conversion Services	AR
866.001	09/27/2010	KG	A		48			20.00 Clark County Recorder - Lien Release	AR
866.001	11/04/2010	KG	A		76			17.36 Online legal research. SA	AR
866.001	11/05/2010	KG	A		76			13.07 Online legal research. RR	AR
866.001	12/16/2010	KG	A		76			25.94 Online legal research. RR	AR
866.001	03/31/2011	KG	A		79			233.18 NV Court Fees	AR
866.001	04/04/2011	KG	A		79			3.50 NV Court Fees	AR
866.001	04/18/2011	KG	A		48			3.50 Wiznet- Court E-Filing Fee	AR
866.001	04/20/2011	KG	A		48			3.50 Wiznet- Court E-Filing Fee	AR
866.001	04/21/2011	KG	A		48			3.50 Wiznet- Court E-Filing Fee	AR

001302

ate: 02/28/2012

# Detail Transaction File List Leach Johnson Song & Gruchow

Page:

Client	Trans Date	Trmr	H P	Check Number	Tcode/ Task Code	Stnt# Rate	Hours to Bill	Amount	Ri
Client ID 866.001 Rosemere Estates Property Owners Association									
866.001	05/11/2011	KG	A		48			3.50 Wiznet- Court E-Filing Fee	AR
866.001	06/28/2011	KG	A		78			7.38 Online legal research. RR	AR
866.001	08/30/2011	KG	A		76			173.67 Online legal research. RR	AR
866.001	07/26/2011	KG	A		76			23.81 Online legal research. RR	AR
866.001	08/16/2011	KG	A		78			3.11 Online legal research. RR	AR
866.001	09/19/2011	KG	A		48			209.50 Wiznet- Court E-Filing Fee	AR
866.001	09/22/2011	KG	A		48			3.50 Wiznet- Court E-Filing Fee	AR
866.001	10/11/2011	KG	A		23	6.500		6.50 Delivery Charge Documents Picked up from Orville McCumber	AR
866.001	10/11/2011	KG	A		48			3.50 Wiznet- Court E-Filing Fee	AR
866.001	10/19/2011	KG	A		76			3.63 Online legal research. RR	AR
866.001	10/31/2011	KG	A		23	6.500		6.50 Delivery Charge Documents to Dept. 32	AR
866.001	11/14/2011	KG	A		79			13.00 Court Parking SLA	AR
866.001	11/22/2011	KG	A		23	6.500		6.50 Delivery Charge Pick up Documents from Santoro Driggs	AR
866.001	11/29/2011	KG	A		23	6.500		6.50 Delivery Charge Documents to Dept 32	AR
866.001	12/01/2011	KG	A		23	6.500		6.50 Delivery Charge Pick up documents from Dept 32	AR
866.001	12/02/2011	KG	A		23	6.500		6.50 Delivery Charge Documents Picked up from Dept. 32	AR
866.001	12/06/2011	KG	A		23	6.500		6.50 Delivery Charge Documents picked up from Dept. 32	AR
866.001	12/09/2011	KG	A		48			3.50 Wiznet- Court E-Filing Fee	AR
866.001	12/15/2011	KG	P		48			3.50 Wiznet- Court E-Filing Fee	1
866.001	12/15/2011	KG	P		48			3.50 Wiznet- Court E-Filing Fee	1
866.001	01/09/2012	KG	P		48			3.50 Wiznet- Court E-Filing Fee	1
866.001	01/23/2012	KG	P		23	6.500		6.50 Delivery Charge Documents to Dept. 32	1
866.001	01/30/2012	KG	P		79			11.00 Court Parking SLA	1
866.001	02/01/2012	KG	P		23	6.500		6.50 Delivery Charge -Documents to Dept.32	1
866.001	02/08/2012	KG	P		79			9.00 Court Parking SLA	1
866.001	02/09/2012	KG	P		23	6.500		6.50 Delivery Charge -Documents to District Court	1
866.001	02/13/2012	KG	P		79			6.00 Court Parking RR	1
866.001	02/13/2012	KG	P		79			109.95 Clark County Treasurer-Copy of Hearing Transcript	1
866.001	02/14/2012	KG	P		23	6.500		6.50 Delivery Charge -Documents to Regional Justice Center	1
866.001	02/16/2012	KG	P		23	6.500		6.50 Delivery Charge -Pick up Documents from Dept. 32	1
Subtotal for Advances						Billable	0.00	1,163.24	
866.001	10/04/2010		A		0			5,747.50 Client Fund Payment.	AR
866.001	11/10/2010		A		0			4,252.50 Client Fund Payment.	AR
866.001	11/18/2010		A	1014	900	38942		351.76 Payment -Personal Check(Rosemere Estates HOA)	AR
866.001	12/08/2010		A	1019	900	40280		16,325.23 Payment	AR
866.001	12/10/2010		A	1021	900	40744		7,391.44 Payment	AR
866.001	02/17/2011		A	1032	900	45141		16,338.93 Payment	AR
866.001	04/06/2011		A	1046	900	48667		4,643.89 Payment	AR
866.001	05/25/2011		A	1056	900	52131		311.50 Payment	AR
866.001	06/21/2011		A	1060	900	53835		1,186.30 Payment	AR
866.001	08/12/2011		A	1068	900	56703		645.06 Payment	AR
866.001	10/18/2011		A	1081	900	63883		5,804.94 Payment	AR
866.001	11/18/2011		A	1088	900	65627		2,834.40 Payment	AR
866.001	12/21/2011		A	1094	900	67566		9,201.73 Payment	AR
866.001	02/01/2012		A	1100	900	69271		5,749.60 Payment	AR
Subtotal for Payments						Billable Payments	0.00	80,784.78	
Total for Client ID 866.001						Billable Payments	448.10	97,636.64	
GRAND TOTALS						Billable Payments	448.10	97,636.64	
						Payments		80,784.78	

# EXHIBIT Y

# EXHIBIT Y

December 4, 2009

To Whom It May Concern:

We have this date become aware of a situation that concerns us.

There is a proposal for the Rosemere Estates Homeowners Association to grant an accommodation to a specific member, without notice, consultation or approval of the other homeowners.

Specifically: It is proposed that the Lamothes be given until January 2, 2010 to pay the assessments, interest and other expenses and charges that they owe to the Association. These charges currently total \$ 20,310. On January 2, this amount owed will become \$20,480 (see data attached).

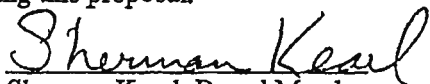
In order to make this accommodation, the Association (the Board), will need to notify Nevada Association Services, Inc. (NAS) of our decision to do so. NAS is currently moving forward, as we contracted them to do, with the process to collect the sums due the Association (see attached letter).

It is our understanding of the Governing Documents that no one individual can legally grant this accommodation.

Additionally, we feel that we cannot, again according to our Governing Documents, grant such an accommodation to a specific member without making all other members aware that such an accommodation is being made, and is available to them also as members of the Association. We feel that to treat a specific member differently than the general membership is to invite scrutiny, criticism, and in this case legal actions. Something we all abhor.

Such an action requires the support of a majority of the Board. And, all things considered, such an action, though legal, should not be done by the Board without consultation with, and approval from, the membership.

Accordingly we have asked the membership to convene at 5 pm this date at our home for the purpose of discussing this proposal, and then to express ourselves in the form of a secret ballot vote to let the Board know the feelings of the membership regarding this proposal.

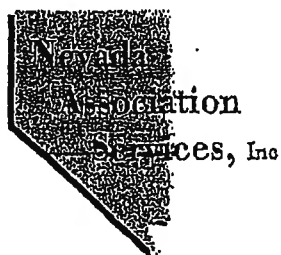
  
Sherman Kears Board Member

  
Karen Kears Board Member

001305

# EXHIBIT Z

# EXHIBIT Z



6224 W. Desert Inn Rd., Suite A  
Las Vegas, Nevada 89146  
Tel: 702.804.8885 / 775.322.8005  
Fax: 702.804.8887 / 755.322.8009  
www.nas-inc.com

## Consent and Authorization

Rosemere Estates (the "Association") hereby appoints Nevada Association Services, Inc. ("NAS"), as the Association's agent for the purpose of collecting delinquent assessments, and/or fines, from Association homeowners. NAS is given full power and authority to act on behalf of and in the name of the Association to do all things in which NAS deems appropriate to effect the collection of the delinquency. This process may include, but is not limited to, sending demand letters, recording of a Notice Delinquent Assessment Lien and if necessary proceeding with a non-judicial foreclosure. NAS is hereby granted the authority to speak directly to the delinquent homeowner(s) on behalf of the Association. If a file is cancelled by the Association, or the Association refuses to allow NAS to continue collection efforts NAS may cancel the file with fees and costs the responsibility of the Association.

NAS is being retained on an as-needed basis and NAS makes no representations or warranties regarding the successful result of its collection efforts. NAS has the option of declining to service the delinquency of any file presented by the Association. NAS may, in its own discretion, terminate the servicing of any Association collection file at any time.

The Association represents to NAS (and NAS is relying on such representation) that in referring any matter to NAS for collection of delinquent assessments, fines or other charges, the Association, has complied with all applicable Federal and State rules and regulations, including, but not limited to applicable provisions of the Nevada Revised Statutes, Covenants Conditions and Restrictions (CC&R's), other Association governing documents and the Federal and State Fair Debt Collection Practices Act, if applicable. The Association also permits NAS to charge collection fees and costs as provided under applicable State and Federal law, and the Association's governing documents.

If NAS, its agents, officers or employees are named party to a lawsuit or other legal proceeding involving the Association and/or a homeowner, the Association agrees to indemnify and hold harmless NAS, its agents, officers or employees from any and all claims, losses, judgment, fees, charges and costs, including attorney's fees, incurred by NAS, its agents, officers or employees with respect to such lawsuit or legal proceeding (including defending a lawsuit). In addition to the indemnification described herein, if NAS, its agents, officers or employees, are named as a party to any lawsuit, the Association, at its own expense, will retain the services of legal counsel, satisfactory to NAS, to represent NAS in such proceeding. The fees and costs for such legal representation will be paid directly by the Association to legal counsel, or as otherwise agreed upon by the Association and NAS. This obligation of indemnification shall survive the termination of this Consent and Acknowledgment without time limitation.

The person signing below is a member of the Board of Directors or lawful agent of the Association with full power to bind the Association to the terms hereof.

Sherman Kearl  
Print Name

SECRETARY  
Title

July 9, 2009  
Date

Sherman Kearl  
Authorized Signature

NAS000003

# EXHIBIT AA

# EXHIBIT AA



Nevada Association Services, Inc.  
6224 W. Desert Inn Road, Suite A  
Las Vegas, NV 89146  
Phone (702) 804-8885  
Fax (702) 804-8887  
Toll Free (888) 627-5544

VIA REGULAR AND  
CERTIFIED MAIL

August 08, 2009

Allen Lytle  
4705 Alladin Lane  
Las Vegas NV 89102

*Re: Trustees Sale #N49759  
1930 Rosemere Court, Las Vegas, NV 89117  
Rosemere Estates / Allen Lytle*

Dear Mr. Lytle:

As you were previously advised, Nevada Association Services, Inc. (NAS) has been retained by Rosemere Estates (the Association) to collect from you the overdue homeowner's assessments you owe the Association. As of the date the lien was prepared, the total amount due, including collection fees and costs is \$12,500.00 (also called the balance due or debt.) Since you have decided not to reinstate your account, a Notice of Delinquent Assessment Lien was recorded on your property. A copy of the lien is enclosed. The amount stated above does NOT include assessments, late fees, interest, fines, collection fees and costs, and other applicable charges, that have become due since the date the lien was recorded. Those additional amounts must be included when you submit your payment. Therefore, you may wish to contact this office to verify the amount due prior to sending your payment.

Nevada law permits NAS to proceed with the recordation of a Notice of Default and Election to Sell (also called an "NOD") which is the next step in the lien foreclosure process. If you want to resolve this matter before the recordation of the NOD, you must, within 30 days from the date of this letter, pay the balance due by cashier's check or money order payable to NAS. Recording of the NOD will result in additional charges for which you will be responsible. The 30 Day Period referenced in our prior "Initial Letter" still applies. Federal Law grants you 30 Days from the date of receipt of the Initial Letter to dispute the validity of the debt or any portion thereof. Should you fail to dispute, in writing, the validity of the debt or any portion thereof within the 30 Day Period, NAS will assume the debt is valid. If you dispute the debt or any portion thereof in writing, NAS will, to the extent required by law, cease collection efforts until validation of the debt is sent to you.

Sincerely,

Drew Malmquist  
Nevada Association Services, Inc.  
encl.

"Nevada Association Services, Inc. is a debt collector. Nevada Association Services, Inc. is attempting to collect a debt. Any information obtained will be used for that purpose."

001309

APN # 163-03-313-009  
# N49759

# **Receipt/Conformed Copy**

Requestor:  
NORTH AMERICAN TITLE COMPANY  
07/20/2009 10:40:06 T20090249744  
Book/Instr: 20090720-0001631  
Lien Page Count: 1  
Fees: \$14.00 N/C Fee: \$0.00

Debbie Conway  
Clark County Recorder

## **NOTICE OF DELINQUENT ASSESSMENT LIEN**

In accordance with Nevada Revised Statutes and the Association's declaration of Covenants Conditions and Restrictions (CC&Rs), recorded on July 03, 2007, as instrument number 0001934 Book 20070703, of the official records of Clark County, Nevada, the Rosemere Estates has a lien on the following legally described property.

The property against which the lien is imposed is commonly referred to as 1930 Rosemere Court Las Vegas, NV 89117 and more particularly legally described as: Rosemere Court, Plat Book 59, Page 58, Lot 9 in the County of Clark.

The owner(s) of record as reflected on the public record as of today's date is (are):  
Lytle Trust, John Allen & Trudi Lee Lytle TRS

Mailing address(es):  
4705 Alladin Lane, Las Vegas, NV 89102  
4705 Alladin Lane, Las Vegas, NV 89102

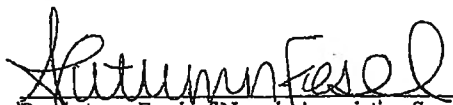
\*Total amount due through today's date is \$12,500.00.

This amount includes late fees, collection fees and interest in the amount of \$2,379.00.

\* Additional monies will accrue under this claim at the rate of the claimant's regular assessments or special assessments, plus permissible late charges, costs of collection and interest, accruing after the date of the notice.

Nevada Association Services, Inc. is a debt collector. Nevada Association Services, Inc. is attempting to collect a debt. Any information obtained will be used for that purpose.

Dated: July 16, 2009



By: Autumn Fesel, of Nevada Association Services, Inc., as agent for Rosemere Estates.

When Recorded Mail To:  
Nevada Association Services, Inc.  
TS #N49759  
6224 W. Desert Inn Road, Suite A  
Las Vegas, NV 89146  
(702) 804-8885  
(888) 627-5544

001310



001311  
 Nevada Association Services, Inc.  
 6224 W. Desert Inn Road, Suite A  
 Las Vegas, NV 89146  
 Phone (702) 804-8885  
 Fax (702) 804-8887  
 Toll Free (888) 627-5544

July 16, 2009

Linda Lamotho  
 1830 Rosemere Court  
 Las Vegas NV 89117

VIA REGULAR AND  
 CERTIFIED MAIL

Re: *Trustees Sale #N49760*  
*1830 Rosemere Court, Las Vegas, NV 89117*  
*Rosemere Estates*

2222012145

Dear Ms. Lamotho:

Nevada Association Services (NAS) has been retained by Rosemere Estates (also called the Association) to collect from you the overdue homeowner's assessment you owe to the Association. As of today's date, records show a balance due on your account of \$12,083.00. Any statements or invoices you receive from your association or its managing agent will not reflect the total amount due.

If you want to resolve this matter before a Notice of Delinquent Assessment Lien is recorded and sent to you pursuant to Nevada Revised Statutes, you must, within 10 days from the date of this letter, pay the balance due. Your payment must be in the form of cashier's check or money order, payable to Nevada Association Services, and mailed to the address indicated above. Should you decide not to pay within the 10 day period, this office will be entitled to proceed with the preparation and recordation of the Notice of Delinquent Assessment Lien. Should the Notice of Delinquent Assessment Lien be prepared and recorded, the additional cost to you will be \$325.00 plus recording and mailing costs. There will also be a \$30.00 charge to your account to release the Notice of Delinquent Assessment Lien, plus recording costs. These charges may not be all inclusive.

Federal Law gives you 30 Days from the date you receive this letter (the 30 Day Period) to dispute the validity of the debt or any part thereof. If you do not dispute the validity of the debt or any portion thereof as outlined above, NAS will assume the debt is valid. If you do contest the validity of this debt or any portion thereof, by notifying NAS in writing to that effect, NAS will, as required by law, obtain and mail to you verification of the debt. And, within the 30 Day Period you request in writing the name and address of your original creditor, if the original creditor is different from the current creditor, the Association, NAS will also furnish you with that information. Federal Law does not require NAS to wait until the end of the 30 Day Period to record the Notice of Delinquent Assessment Lien. If, however, you notify NAS, in writing, within the 30 Day Period, that begins with the receipt of this letter, that you dispute the debt or any portion thereof, or that you request the name and address of the original creditor, if the original creditor is different from the current creditor, the Association, NAS will, as required by law, cease collection of the debt or any disputed portion thereof until NAS obtains verification of the debt or the name and address of the original creditor and a copy of such verification or name of the original creditor is mailed to you by NAS.

If you have any questions, please contact an account manager at (702) 804-8885.

Sincerely,

*M. Alexander*

Megan Alexander  
 Nevada Association Services, Inc.



"Nevada Association Services, Inc. is a debt collector. Nevada Association Services, Inc. is attempting to collect a debt. Any information obtained will be used for that purpose."

001311

# EXHIBIT BB

# EXHIBIT BB



Nevada Association Services  
 6224 W. Desert Inn Road, Suite A  
 Las Vegas, NV 89146  
 Phone: (702) 804-8885  
 Fax: (702) 804-8887  
 Toll Free: (888) 627-5544

December 1, 2009

Trudi Lytle  
 c/o Wolf, Rifkin, Shapiro, Schulan & Rabkin, LLP  
 3556 E. Russell Road, 2nd Floor  
 Las Vegas NV 89120

*RE: 1930 Rosemere Court  
 Rosemere Estates / Allen Lytle  
 Trustees Sale # N49759*

Dear Ms. Lytle:

As you know, your failure to pay your homeowner's association assessments has resulted in a lien being recorded against your property. The Association will soon proceed with a non-judicial foreclosure action, which could result in you losing your property. You will also be responsible to pay the additional foreclosure fees and costs, which could total approximately \$700 in additional charges.

Both this office and your Association urge you to contact Nevada Association Services, Inc. in order to arrange for immediate payment. Should you decide not to remit full payment in the form of cashier's check or money order, to this office, within 10 days of the date of this letter, foreclosure proceedings will commence.

YOU MUST CONTACT THIS OFFICE TO VERIFY THE AMOUNT DUE PRIOR TO SENDING YOUR PAYMENT.

This will be the final correspondence you will receive prior to a Notice of Default being recorded on your property.

Thank you in advance for your immediate payment.

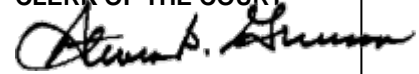
Sincerely,

Debbie Kluska  
 Nevada Association Services, Inc.

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**JOIN**  
CHRISTINA H. WANG, ESQ.  
Nevada Bar No. 9713  
FIDELITY NATIONAL LAW GROUP  
8363 W. Sunset Road, Suite 120  
Las Vegas, Nevada 89113  
Tel: (702) 667-3000  
Fax: (702) 938-8721  
Email: christina.wang@fnf.com  
*Attorneys for Counter-Defendants/Cross-Claimants*  
*Robert Z. Disman and Yvonne A. Disman*



**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST,  
LINDA LAMOTHE AND JACQUES  
LAMOTHE, TRUSTEES OF THE JACQUES  
& LINDA LAMOTHE LIVING TRUST,

Plaintiffs,

vs.

TRUDI LEE LYTLE, JOHN ALLEN LYTLE,  
THE LYTLE TRUST, DOES I through X, and  
ROE CORPORATIONS I through X,

Defendants.

AND ALL RELATED MATTERS

Case No.: A-16-747800-C

Dept. No.: XVI

**JOINDER TO REPLY TO  
OPPOSITION TO PLAINTIFFS'  
MOTION FOR AN ORDER TO SHOW  
CAUSE WHY THE LYTLE TRUST  
SHOULD NOT BE HELD IN  
CONTEMPT FOR VIOLATION OF  
COURT ORDERS**

Hearing Date: April 22, 2020

Hearing Time: 9:00 a.m.

Counter-Defendants/Cross-Claimants ROBERT Z. DISMAN and YVONNE A. DISMAN (hereinafter collectively referred to as, the "Dismans"), by and through their attorneys of record, the Fidelity National Law Group, hereby file this Joinder to Reply to Opposition to Plaintiffs' Motion for an Order to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders, filed on April 14, 2020.

The Dismans hereby join in the arguments raised as set forth in the Reply for those reasons stated therein, the papers and pleadings on file herein, and any oral argument that the

1 Court may entertain at the time of any hearing on the Motion.

2 DATED this 14<sup>th</sup> day of April, 2020.

3 FIDELITY NATIONAL LAW GROUP

4  
5 /s/ Christina H. Wang

6 CHRISTINA H. WANG, ESQ.

7 Nevada Bar No. 9713

8 8363 W. Sunset Road, Suite 120

9 Las Vegas, Nevada 89113

10 *Attorneys for Counter-Defendants/Cross-*

11 *Claimants Robert Z. Disman and*

12 *Yvonne A. Disman*

13

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**CERTIFICATE OF SERVICE**

The undersigned employee of Fidelity National Law Group, hereby certifies that she served a copy of the foregoing **JOINDER TO REPLY TO OPPOSITION TO PLAINTIFFS' MOTION FOR AN ORDER TO SHOW CAUSE WHY THE LYTLE TRUST SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATION OF COURT ORDERS** upon the following parties on the date below entered (unless otherwise noted), at the fax numbers and/or addresses indicated below by: ☐ (i) placing said copy in an envelope, first class postage prepaid, in the United States Mail at Las Vegas, Nevada, ☐ (ii) via facsimile, ☐ (iii) via courier/hand delivery, ☐ (iv) via overnight mail, ☐ (v) via electronic delivery (email), and/or ☒ (vi) via electronic service through the Court's Electronic File/Service Program.

Richard E. Haskin, Esq.  
 Timothy P. Elson, Esq.  
 GIBBS GIDEN LOCHER TURNER  
 SENET & WITTBRODT LLP  
 1140 N. Town Center Drive, Suite 300  
 Las Vegas, Nevada 89144-0596  
*Attorneys for Defendants/Counter-  
 Claimants Trudi Lee Lytle and John  
 Allen Lytle, Trustees of The Lytle Trust*

Daniel T. Foley, Esq.  
 FOLEY & OAKES, PC  
 1210 S. Valley View Blvd., Suite 208  
 Las Vegas, Nevada 89102  
*Attorneys for Plaintiffs Marjorie B.  
 Boulden, Trustee of The Marjorie B.  
 Boulden Trust, amended and restated  
 dated July 17, 1996; and Linda Lamothe  
 and Jacques Lamothe, Trustees of the  
 Jacques and Linda Lamothe Living Trust*

Kevin B. Christensen, Esq.  
 Wesley J. Smith, Esq.  
 Laura J. Wolff, Esq.  
 CHRISTENSEN JAMES & MARTIN  
 7440 W. Sahara Avenue  
 Las Vegas, Nevada 89117  
*Attorneys for September Trust, Zobrist  
 Trust, Sandoval Trust and Dennis &  
 Julie Gegen*

Dan R. Waite, Esq.  
 LEWIS ROCA ROTHGERBER  
 CHRISTIE LLP  
 3993 Howard Hughes Parkway, Suite 600  
 Las Vegas, Nevada 89169  
*Attorneys for Defendants/Counter-  
 Claimants Trudi Lee Lytle and John Allen  
 Lytle, Trustees of The Lytle Trust*

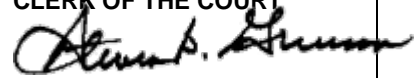
**DATED:** 04/14/2020

/s/ Lace Engelman

An employee of Fidelity National Law Group

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1 **EXHS**  
2 DAN R. WAITE, ESQ.  
3 Nevada Bar No. 4078  
4 DWaite@lrrc.com  
5 **LEWIS ROCA ROTHGERBER CHRISTIE LLP**  
6 3993 Howard Hughes Parkway, Suite 600  
7 Las Vegas, Nevada 89169  
8 Telephone: 702-949-8200  
9 Facsimile: 702-949-8398  
10  
11 *Attorneys for Defendants*

12  
13 **DISTRICT COURT**  
14 **CLARK COUNTY, NEVADA**

15 MARJORIE B. BOULDEN, TRUSTEE OF  
16 THE MARJORIE B. BOULDEN TRUST, et  
17 al.,

18 Plaintiff,

19 v.

20 TRUDI LEE LYTLE, et al.,

21 Defendants,

22  
23 SEPTEMBER TRUST, DATED MARCH 23,  
24 1972, et al.,

25 Plaintiffs,

26 v.

27 TRUDI LEE LYTLE AND JOHN ALLEN  
28 LYTLE, AS TRUSTEES OF THE LYTLE  
TRUST, et al.,

Defendants.

Case No.: A-16-747800-C

Dept. No.: 16

**DEFENDANT LYTLE TRUST'S  
HEARING EXHIBITS**

**DATE OF HEARING: APRIL 22, 2020**

**TIME OF HEARING: 9:00 A.M.**

23 Given the existing COVID-19 environment and the prohibition of in-court appearances,  
24 Defendants Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust, hereby submit  
25 the following exhibits it may use at the hearing scheduled in this matter for April 22, 2020, at 9:00  
26 a.m. on Plaintiffs' Motion for an Order to Show Cause Why the Lytle Trust Should Not Be Held  
27 in Contempt of Court Orders:

- 28 1. **Exhibit "A":** Chart entitled "Judge Williams's Permanent Injunction" [1 page]

1           2.       **Exhibit “B”:** Select pages from the Lytle Trust’s Renewed Application for  
2 Appointment of Receiver, filed on October 24, 2019, in Case No. A-18-775843-C (assigned to  
3 Judge Kishner), Eighth Judicial District Court, Clark County, Nevada. [4 pages]

4           3.       **Exhibit “C”:** Association Financial Accounting (January 2006 – June 5, 2007) [2  
5 pages]

6           The Lytle Trust requests counsel and the Court to have access to the attached exhibits  
7 during the hearing scheduled for April 22, 2020, at 9:00 a.m., as they will facilitate the  
8 undersigned’s argument.

9  
10           Dated this 21st day of April, 2020.

11                                   **LEWIS ROCA ROTHGERBER CHRISTIE LLP**

12  
13                                   By: /s/ Dan R. Waite

14                                   DAN R. WAITE (SBN 4078)  
15                                   3993 Howard Hughes Parkway, Suite 600  
16                                   Las Vegas, Nevada 89169  
17                                   (702) 949-8200  
18                                   Attorneys for Defendants

3993 Howard Hughes Pkwy, Suite 600  
Las Vegas, NV 89169-5996

**Lewis Roca**  
**ROTHGERBER CHRISTIE**

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that on this day, I caused a true and correct copy of the following ***“DEFENDANT LYTLE TRUST’S HEARING EXHIBITS”*** to be e-filed and served via the Court’s E-Filing System.

Richard Haskin  
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 dan@foleyoakes.com  
*Attorneys for Marjorie Boulden Trust and  
 Linda and Jacques Lamothe Trust*

Dated this 21<sup>st</sup> day of April, 2020

/s/ Luz Horvath  
 An Employee of Lewis Roca Rothgerber Christie LLP

# Exhibit A

# Exhibit A

## 001321

10 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the  
11 Lytle Trust is permanently enjoined from recording and enforcing the Judgments obtained from  
12 the Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other  
13 judgments obtained against the Association, against the September Property, Zobrist Property,  
14 Sandoval Property or Gegen Property.  
15

Operative Language: “recording and enforcing the Judgments . . . against the September Property, Zobrist Property, Sandoval Property or Gegen Property”

Dispositive Questions:

- a. In seeking the appointment of a Receiver, did the Lytle Trust record anything?
- b. Does seeking the appointment of a Receiver over the Association constitute enforcing the Lytle Trust's Judgments against the homeowners' properties?

[illegible]

15 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the  
16  
17 Lytle Trust is permanently enjoined from taking any action in the future directly against the  
18 Plaintiffs or their properties based upon the Rosemere Litigation I, Rosemere Litigation II or  
19 Rosemere Litigation III.

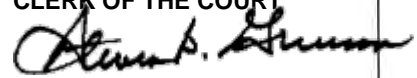
Operative Language: “directly against the Plaintiffs or their properties”

Dispositive Question:

- a. Did the Lytle Trust's request for the appointment of a Receiver to take control of the Association constitute direct action against the homeowners or their properties?

**Exhibit B**

**Exhibit B**



**APPL**

Richard E. Haskin, Esq.  
Nevada State Bar # 11592

**GIBBS GIDEN LOCHER TURNER  
SENET & WITTBRODT LLP**

1140 N. Town Center Drive, Suite 300  
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(702) 836-9800

Attorneys for Plaintiff  
TRUDI LEE LYTLE AND JOHN ALLEN  
LYTLE, AS TRUSTEES OF THE LYTLE  
TRUST

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

TRUDI LEE LYTLE AND JOHN ALLEN  
LYTLE, AS TRUSTEES OF THE LYTLE  
TRUST,

Plaintiff,

v.

ROSEMERE ESTATES PROPERTY OWNERS'  
ASSOCIATION; DOES 1 through 20, inclusive;  
and ROE CORPORATIONS 1 through 80,  
inclusive,

Defendants.

CASE NO.: A-18-775843-C  
DEPT.: XXXI

**RENEWED APPLICATION FOR  
APPOINTMENT OF RECEIVER**

Date:  
Time:

**[HEARING REQUESTED]**

Plaintiff TRUDI LEE LYTLE AND JOHN ALLEN LYTLE, AS TRUSTEES OF THE  
LYTLE TRUST (hereinafter the "Lytle Trust"), hereby apply for an Appointment of a Receiver to  
preserve Defendant ROSEMERE ESTATES PROPERTY OWNERS' ASSOCIATION (the  
"Association"), to pay for mandatory maintenance of the common area expenses, and to compel an  
assessment of the Association members to pay a judgment against the Association.

This Motion is brought pursuant to NRS 32.010, 78.600, 78.650, and 82.471, and is made  
upon the grounds that the Lytle Trust—which is both (a) a property owner in Rosemere Estates and  
thus a member of the Association, and (b) a creditor with judgments against the Association  
exceeding \$1.4 million—seeks the assistance of a Receiver pursuant to:

///

///

**C. Judgments Entered In Favor Of The Lytle Trust And Against The Association**

**1. Rosemere 1 Litigation (2007-2016)**

In 2007, the Lytle Trust filed an NRS 38.310 mandated non-binding arbitration before the NRED, naming the Association as respondent. The Lytle Trust sought a declaration that the Amended CC&Rs were unlawfully adopted, recorded and enforced by the Association against the Lytle Trust.

After the arbitrator found in favor of the Association, the Lytle Trust filed for a trial de novo in this District Court, case number A-09-593497-C, which was assigned to Judge Michelle Leavitt (the “Rosemere 1 Litigation”). The Lytle Trust entirely prevailed in the litigation, and the Court granted the Lytle Trust’s summary judgment on July 29, 2013. *Id.*, COL No. 11, **Exhibit 5**. Indeed, the Court determined that “the Amended CC&Rs were not properly adopted or recorded, that **the Amended CC&Rs are invalid, and that the Amended CC&Rs have no force and effect.**” *Id.*, COL No. 25.

On May 25, 2016, after hearing the Lytle Trust’s motion for attorneys’ fees, the Court awarded the Lytle Trust \$297,072.66 in attorneys’ fees. Order Awarding Attorneys’ Fees in Rosemere 1 Litigation, **Exhibit 6**. On June 17, 2016, the Court awarded the Lytle Trust damages, after a prove-up hearing, in the amount of \$63,566.93. Order Awarding Damages in Rosemere 1 Litigation, **Exhibit 7**. Finally, the Court awarded the Lytle Trust costs in the amount of \$2,561.80. Orders Awarding Costs in Rosemere 1 Litigation, **Exhibit 8**. Thus, the total amount the Association owes the Lytle Trust arising from Rosemere 1 Litigation is \$363,201.39, plus accruing interest.

**2. Rosemere 2 Litigation (2010-2017)**

On March 16, 2010, the Lytle Trust initiated another NRS 38.310 mandated non-binding arbitration before NRED, naming the Association as respondent (the “Rosemere 2 Litigation”). The purpose of the Rosemere 2 Litigation was to halt non-judicial foreclosure proceedings initiated by the Association against the Lytle Trust pursuant to NRS Chapter 116 and the Amended CC&Rs.<sup>3</sup> *See*, Complaint in Rosemere 2 Litigation, **Exhibit 9**. The Lytle Trust also sought an order directing

<sup>3</sup> Note, Rosemere 2 Litigation commenced more than six years before the Court in Rosemere 1 Litigation ruled that the Amended CC&Rs were invalid. Indeed, for purposes of Rosemere 2 Litigation, the parties stipulated that the Amended CC&Rs were valid and that NRS Chapter 116 fully applied to the Association.

1                   5.     The Rosemere 1 and Rosemere 2 Judgments Were Awarded Pursuant To  
 2                   The Amended CC&Rs

3             The Amended CC&Rs were recorded on July 3, 2007, in the office of the Recorder for Clark  
 4     County, Nevada. From that date, the Association deemed itself a full-blown unit owners'  
 5     association, subject to and taking advantage of all rights, privileges and remedies afforded by the  
 6     entirety of Chapter 116, including the right to assess and initiate Chapter 116 foreclosure  
 7     proceedings for failure to pay assessments, which is exactly what the Association did to the Lytle  
 8     Trust. *See generally*, Order Granting Summary Judgment, **Exhibit 5**. The Amended CC&Rs adopt  
 9     Chapter 116 of the Nevada Revised Statutes. Amended CC&Rs, at Article I, **Exhibit 1**. The  
 10    Amended CC&Rs define the Association pursuant to the Uniform Common-Interest Ownership Act.  
 11    *Id.* at 1.1. The Amended CC&Rs routinely reference Chapter 116 of the Nevada Revised Statutes.  
 12    *See, e.g., id.* at 1.13, 1.14, 1.30, 8.1, 10.3 (referring to the lien statutes codified in Chapter 116).

13            In granting the Lytle Trust's Motion for Attorneys' Fees, the district court in the Rosemere 1  
 14    and 2 Litigations cited *Mackintosh v. Cal. Fed. S&L Ass'n*, 113 Nev. 393, 405-406, 935 P.2d 1154,  
 15    1162 (1997), and held that the Lytle Trust could recover attorneys' fees under **the Amended CC&Rs**  
 16    **because that document, while declared void ab initio by the district court,** was in effect and enforced  
 17    by the Association against the Lytle Trust at all times during the underlying litigation. *See*  
 18    *generally*, Orders Granting Attorneys' Fees, **Exhibits 6, 11**.

19            In *Mackintosh, supra*, the purchasers of real property sued a savings and loan association for  
 20    rescission of a residential property purchase agreement. *Mackintosh*, 113 Nev. at 396-397, 935 P.2d  
 21    at 1157. The district court granted summary judgment in favor of the purchasers, finding the  
 22    purchase agreement was properly rescinded and *void ab initio*. However, the district court denied  
 23    the purchasers' request for attorney fees because the entire agreement, including the attorneys' fee  
 24    provision, was "void from its date of inception, just as if the contract had never existed." *Id.* 113  
 25    Nev. at 405-406, 935 P.2d at 1162.

26            The Supreme Court upheld the district court's summary judgment determination that the  
 27    purchasers had rescinded the purchase agreement. *Id.* However, the Supreme Court held the district  
 28    court improperly denied the purchasers' request for attorneys' fees. *Id.* Holding that an attorney fee

1           4.       Update registration with the ombudsman pursuant to NRS 116.31158.

2           5.       Pay the Secretary of State for the State of Nevada all past due and presently due  
3 amounts to amend the Association's status from "revoked" status, and if there are insufficient funds  
4 within the Association's accounts to pay such fees, issue a special assessment upon all owners within  
5 the Association to satisfy any amounts due to Secretary of State.

6           6.       Conduct an election for the Board of Directors for the Association.

7           7.       Make any necessary repairs to the common areas, and if there are insufficient funds  
8 within the Association's account to pay for such repairs, issue a special assessment upon all owners  
9 within the Association to pay for said repairs.

10          8.       Issue a special assessment upon all members of the Association to pay the receiver's  
11 fees and costs.

12       **IV.    CONCLUSION**

13           For the foregoing reasons, the Lytle Trust, an Association creditor and member, requests this  
14 Court appoint a receiver pursuant to the foregoing authority. The Lytle Trust provides a proposed  
15 Order for this Court to sign concurrently with the filing of this Application.

16 DATED: October 24, 2019

GIBBS GIDEN LOCHER TURNER  
SENET & WITTBRODT LLP

17 By: 

18 Richard E. Haskin, Esq.  
19 Nevada State Bar # 11592  
20 1140 N. Town Center Drive, Suite 300  
21 Las Vegas, Nevada 89144  
22 Attorneys for Plaintiff

23 TRUDI LEE LYTLE AND JOHN ALLEN LYTLE, AS  
24 TRUSTEES OF THE LYTLE TRUST  
25  
26  
27  
28

# Exhibit C

# Exhibit C

# ROSEMERE ESTATES HOMEOWNERS ASSOCIATION

## Financial Account for 2006

Check #:	Date:	Item:	Inc:	Exp:	Balance:
		Balance as of 1-15-06 - - -			\$2999.82
1068	1-15	LV Water	\$17.59		2982.23
1069	1-15	Sprint [gate telephone]	26.81		2955.42
1070	1-26	Nevada Power [gate & gate lights]	17.91		2937.51
1071	2-10	LV Water [entry landscaping]	28.54		2908.97
1072	2-20	Sprint	26.81		2882.16
1073	2-20	Nevada Power	20.04		2862.12
1074	3-1	State Farm [liability insurance]	450.00		2412.12
1075	3-1	Sprint	26.81		2385.31
1076	3-20	LV Water	33.24		2352.07
1077	3-31	Nevada Power	19.07		2333.00
1078	4-16	LV Water	33.51		2299.49
1079	4-16	Irrigation/landscape maintenance/repair	184.71		2114.78
1080	4-16	Sprint	26.83		2087.95
1081	4-21	Mesquite Lawn [landscaping]	655.07		1432.88
1082	5-1	Nevada Power	18.01		1414.87
1083	5-26	LV Water	33.51		1381.36
1084	5-26	Sprint	54.22		1327.14
1085	5-26	Nevada Power	18.31		1308.83
1086	6-11	LV Water	40.97		1267.86
1087	6-20	Nevada Power	17.01		1250.85
1088	6-20	Sprint	26.83		1224.02
1089	7-20	Sprint	26.80		1197.22
1090	7-20	LV Water	40.97		1156.25
1091	7-25	Nevada Power	17.11		1139.14
1092	8-11	LV Water	46.19		1092.95
1093	8-27	Sprint	26.86		1066.09
1094	8-27	Nevada Power	15.36		1050.73
1095	9-20	Nevada Power	15.89		1034.84
1096	9-20	LV Water	43.58		991.26
1097	9-20	Sprint	26.86		964.40
1098	10-10	Innovative Access Control [gate maintenance]	110.17		854.23
1099	10-10	LV Water	43.58		810.65
1100	10-20	Nevada Power	15.26		795.39
1101	11-20	Sprint [gate call box repair]	60.83		734.56
1102	11-23	Sprint	35.01		699.55
1103	11-23	LV Water	45.67		653.88
1104	11-23	Nevada Power	15.26		638.62

Check #:	Date:	Item:	Inc.:	Exp.:	Balance:
1105	12-15	LV Water		7.26	631.36
1106	12-26	Nevada Power		20.83	610.53
1107	12-26	Sprint		26.80	583.73
1108	1-10-07	NV Secretary of State [filing fee]		25.00	558.73
1109	1-13	LV Water		5.20	553.53
1110	1-25	Nevada Power		21.64	531.89
1111	1-27	Mesquite Lawn [valve-timer repair]		270.00	261.89
1112	1-30	Sprint		26.83	235.06
	1-30	Bank service charge		24.00	211.06
	2-12-07	New Account #8632741347			
093	2-15	Sprint		26.82	184.24
094	2-15	LV Water		6.46	177.78
	2-16	Kearl loan to Association	\$200.00		377.78
095	2-16	Ombudsman fee [inc. past due]		216.00	161.78
101	2-20	Nevada Power		19.57	142.19
102	3-1	NV Secretary of State [registration/filing]		60.00	82.19
103	3-15	Sprint		26.82	55.37
104	3-15	LV Water		5.52	49.85
105	3-15	Nevada Power		20.00	29.85
106	4-15	LV Water		7.39	22.46
	4-18	Kearl Annual Assessment	\$500.00		522.46
107	4-18	Santoro et al [attorney fee]		281.47	240.99
108	4-18	Nevada Power		16.20	224.79
109	4-18	Embarq [Sprint]		26.89	197.90
110	5-14	LV Water		3.92	193.98
111		void			
112	5-20	Embarq [Sprint]		26.89	167.09
113	6-1	Nevada Power		14.95	152.14
114	6-4	Kearl loan to Association	\$1,300.00		1452.14
115	6-5	Santoro et al [attorney fee]		1295.55	156.59

30

30

A-16-747800-C

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

April 22, 2020

A-16-747800-C      Marjorie B. Boulden Trust, Plaintiff(s)  
vs.  
Trudi Lytle, Defendant(s)

April 22, 2020      09:00 AM      All Pending Motions

HEARD BY: Williams, Timothy C.      COURTROOM: RJC Courtroom 03H

COURT CLERK: Darling, Christopher

RECORDER:

REPORTER: Tavaglione, Dana J.

**PARTIES PRESENT:**

Christina H. Wang	Attorney for Counter Defendant, Cross Claimant, Other Defendant
Dan R Waite	Attorney for Counter Claimant, Defendant, Trustee
Daniel Thomas Foley, ESQ	Attorney for Counter Defendant, Cross Defendant, Plaintiff, Trustee
John Allen Lytle	Counter Claimant, Defendant, Trustee
Linda Lamothe	Counter Defendant, Plaintiff, Trustee
Marjorie B Boulden	Cross Defendant, Plaintiff, Trustee
Richard Edward Haskin Esq	Attorney for Counter Claimant, Defendant, Trustee
Trudi Lee Lytle	Counter Claimant, Defendant, Trustee
Wesley J. Smith, ESQ	Attorney for Other Plaintiff

**JOURNAL ENTRIES**

APPEARANCES CONTINUED: Patricia Lee and Receiver, Kevin Singer, also present telephonically.

PLAINTIFFS' MOTION FOR AN ORDER TO SHOW CAUSE WHY THE LYTLE TRUST SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATION OF COURT ORDERS JOINER TO PLAINTIFFS' MOTION FOR AN ORDER TO SHOW CAUSE WHY THE LYTLE TRUST SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATION OF COURT ORDERS JOINER ON PLAINTIFFS September TRUST ET. AL S MOTION FOR AN ORDER TO SHOW CAUSE WHY THE LYTLE TRUST SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATION OF COURT ORDERS

All parties present telephonically. Arguments by counsel. Court stated ITS FINDS and ORDERED, Motion for Order to Show Cause GRANTED; will be assessment of \$500.00 per Pltf. Court directed filing of application for fees and costs to be heard on the merits. Court directed Mr. Smith to prepare and circulate findings of fact and conclusions of law; if parties cannot agree on form and content, may submit competing orders.

31

31



1 LAS VEGAS, NEVADA, WEDNESDAY, APRIL 22, 2020

2 \* \* \* \* \*

3

4 THE COURT: I guess we'll go to the last  
5 matter, and that's page 7, and that's Marjorie B.  
6 Boulden Trust, et al., vs. Trudi Lytle, et al.

7 we'll start with the plaintiffs, and let's  
8 go ahead and place our appearances on the record.

9 (Garbled audio.)

10 THE REPORTER: Whoa.

11 THE COURT: Oh, we have some really bad  
12 audio right now, gentlemen, but we also -- this is a  
13 blended matter as it relates -- I guess there's been  
14 some request for appearances by Court Call, and  
15 we'll get them on the line right now. Hopefully we  
16 can get through this and work through it.

17 UNIDENTIFIED SPEAKER: Would you like me to  
18 try that again, Your Honor?

19 THE COURT: You know what we'll do, we'll  
20 make the Court Call call first, and then we'll go  
21 ahead and place our appearances on the record after  
22 that.

23 (Pause in the proceedings.)

24 THE COURT: We've called the Boulden Trust  
25 matter vs. the Lytle Trust matter, and it's my

001332

1 understanding we have five counsel on line; is that  
2 correct, ma'am?

3 COURT CALL OPERATOR: Perfect. We have  
4 four online. I'll go ahead and bring them in. They  
5 were listening to music while we were waiting.

6 THE COURT: It's been a long wait.

7 COURT CALL OPERATOR: It has. I understand  
8 that 100 percent. We have Marjorie Boulden, Dan  
9 Waite, Linda Lamothe, and Richard Haskin. I'll go  
10 ahead and bring them open now.

11 THE COURT: All right. Thank you, ma'am.

12 COURT CALL OPERATOR: And counsels' lines  
13 are all open.

14 THE COURT: All right. We've opened up.  
15 And for the record, I want everyone to understand we  
16 have two things going on right now. We have parties  
17 appearing by Court Call. Just as important, in the  
18 courtroom, we're using Blue Jeans, and so we're  
19 going to have to take our time and work through  
20 this. Without having live appearances, this has  
21 somewhat slowed down our ability to argue because  
22 we've had difficulty with some of the audio, and  
23 it's caused us to really truly take our time.

24 And so what we're going to do right now,  
25 and if there's any problems with audio and/or

001333

1 hearing, I'll let you know. And just as important,  
2 if you can't hear me or hear the other side, you  
3 have to let us know.

4 My first question is this: Do we want to  
5 have this matter reported?

6 (Two counsel speak at same time.)

7 THE COURT: Okay. Two at a time are going.  
8 Okay. And what we'll do then, we'll start  
9 first with the plaintiffs. Then we'll go to the  
10 defense, and that's how we'll handle it as we  
11 journey through this law and motion calendar.

12 And from the plaintiffs' perspective, does  
13 anyone want to have this matter reported?

14 MR. SMITH: Yes, Your Honor. This is  
15 Wesley Smith for the plaintiffs. We would like it  
16 reported.

17 THE COURT: All right. And, Mr. Waite,  
18 it's my understanding you feel the same too; is that  
19 correct, sir?

20 MR. WAITE: That's correct, Your Honor.

21 I don't know who just spoke, and it was  
22 hard to hear whoever just spoke.

23 THE COURT: It's my understanding Mr. Smith  
24 spoke. Is that correct, sir?

25 MR. SMITH: Yes, sir.

1 THE COURT: Did you hear that, Mr. Waite?

2 MR. WAITE: I did. Is he on the speaker  
3 phone?

4 THE COURT: Just so everyone understands,  
5 here's the problem we have, and historically I've  
6 used Court Call, but right now the courts have  
7 opened up Blue Jeans for oral argument, and the  
8 majority of the lawyers are utilizing Blue Jeans, I  
9 guess because of the cost issue. That's their  
10 option. But it becomes very difficult for the  
11 parties on one line or the other to hear each other  
12 if you're not on the same telephonic line, and  
13 that's the problem we have right now.

14 So hopefully, sir, you can hear it, and if  
15 not, maybe we might have to shut down and have  
16 everyone on the same line. But if there's a  
17 problem, Mr. Waite, let us know. Okay. What we're  
18 going to do, we're going to try to make sure --  
19 maybe this might change everything. We're going to  
20 start with the plaintiffs first, and the court  
21 reporter wants to make sure we note everyone's  
22 appearance, for the record.

23 We'll start with the plaintiffs.

24 MR. SMITH: Wesley Smith, counsel for the  
25 plaintiffs. That's the Sandoval Trust, Zobrist

1 Trust, September Trust, and Dennis and Julie Gegen.

2 MR. FOLEY: Dan Foley for the plaintiffs,  
3 for Boulden Trust and the Lamothe Trust.

4 MS. WANG: This is Attorney Christina Wang  
5 on behalf of counterdefendants, cross-claimants  
6 Robert Z. Disman and Yvonne A. Disman.

7 THE COURT: Has everyone on the plaintiffs'  
8 side set forth their appearances on the record?

9 I think so. Okay. Mr. Waite, did you hear  
10 that, sir?

11 MR. WAITE: I did, Your Honor. You know  
12 what, I found that if I actually hold the phone away  
13 from me a little bit, instead of right against my  
14 ear, I can hear a little bit better. So hopefully  
15 that will persist, and I'll just turn up the volume.

16 THE COURT: Okay. Sir, and you can go  
17 ahead, for the record.

18 MR. WAITE: And, again, this is Dan Waite,  
19 for the record, representing the Lytle Trust, the  
20 Defendant Lytle Trust. And I believe  
21 Mr. and Mrs. Lytle are on the phone as well.

22 THE COURT: Thank you, sir. Anyone else?

23 MR. HASKIN: Also, Your Honor, Richard  
24 Haskin, appearing on behalf of the Lytle Trust.

25 THE COURT: Thank you, sir. Anyone else?

1 MS. LEE: Your Honor, this is Patricia Lee,  
2 Bar No. 8287. I appreciate your indulgence to allow  
3 us to passively participate in today's hearing. I  
4 represent Kevin Singer, the court-appointed receiver  
5 in the Kishner matter, and I believe Mr. Singer is  
6 also on the line. We don't intend to participate  
7 actively. We're just observers in this hearing  
8 unless Your Honor has any questions or anything like  
9 that.

10 THE COURT: And, ma'am, for the record, I  
11 probably won't. But the reason why I permitted your  
12 appearance and also making sure that the receiver  
13 had an opportunity to sit in, I'm treating this no  
14 different than an open courtroom. And historically  
15 the courtrooms are always open, and as a result, if  
16 we didn't have this unfortunate Covid-19 issue we're  
17 grappling with today, you'd have a right to come in  
18 and sit in open court and observe.

19 Unfortunately, the only way you can do that  
20 currently is by listening to the telephonic  
21 communications and record that is being developed  
22 right now. And so, of course, you have a right to  
23 listen.

24 MS. LEE: Yes, Your Honor. And we  
25 appreciate the accommodation. Thank you so much.

1 THE COURT: Okay. So let's go ahead to the  
2 Plaintiffs' Motion for an Order to Show Cause why  
3 Lytle Trust Should Not Be Held in Contempt.

4 And I guess that we're going to get started  
5 with Mr. Smith; is that correct, sir?

6 MR. SMITH: Yes, sir.

7 THE COURT: Okay. You have the floor, and  
8 take your time. Take your time.

9 MR. SMITH: Thank you, Your Honor.  
10 Wesley Smith, counsel for the plaintiff. Again, I  
11 represent the Sandoval Trust, the Zobrist Trust,  
12 September Trust, and Dennis Gegen. Dan Foley and  
13 Christina Wang are also on the line. They represent  
14 other homeowners, and they have filed joinders to my  
15 motion. So they may have some additional argument  
16 that I might not cover. If I'm not speaking clear  
17 enough or slow enough, please just let me know.

18 The first thing I want to do is make  
19 something very clear. To the extent that the  
20 plaintiffs' motion mentions actions by the receiver,  
21 they're also intending to give context to the  
22 actions and events set in motion by the Lytle Trust.

23 THE REPORTER: I'm sorry. "Their intent."  
24 Could he repeat that sentence.

25 THE COURT: Would you repeat that, sir.

1 MR. SMITH: Sure. To the extent that the  
2 plaintiffs' motion mentions action by the receiver  
3 that is intended to give context to the actions and  
4 events set in motion by the Lytle Trust, the  
5 plaintiffs maintain their opposition to the  
6 appointing of the receiver, which they have  
7 addressed directly to the receivership court --  
8 that's Judge Kishner's courtroom -- in a separate  
9 motion, the plaintiffs --

10 THE REPORTER: Which judge? I'm sorry.

11 THE COURT: After you said "receivership  
12 judge," please identify the judge because I think  
13 you were speeding up and it was becoming more  
14 difficult for the court reporter.

15 THE REPORTER: It's enunciation, Your Honor.

16 THE COURT: And enunciate a little clearer  
17 for the court reporter. Sir.

18 MR. SMITH: Sure. That would be Judge  
19 Kishner, the judge assigned to the receivership  
20 action. The plaintiff acknowledged that the  
21 receiver is not a party to this case and the  
22 plaintiffs are not seeking sanctions or any action  
23 against the receiver in this matter. The  
24 plaintiffs' motion is against the Lytle Trust and  
25 the Lytle Trust only.

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1           So, Your Honor, the question presented  
2 today is did the Lytle Trust violate this Court's  
3 orders when it filed an action for appointment of a  
4 receiver for the express purpose of making special  
5 assessments on the homeowners to pay the Rosemere  
6 judgment.

7           THE REPORTER: "Rosner" judgment?

8           MR. SMITH: "Rosemere." Rosemere is  
9 spelled R-O-S-E-M-E-R-E.

10          THE COURT: You may continue.

11          MR. SMITH: Thank you. And in order to  
12 answer that question, we must first understand that  
13 the Court's orders are far more than the two  
14 Permanent Injunction paragraphs. Those orders  
15 contain key Findings of Fact and Conclusions of Law  
16 that led to and support the Permanent Injunction.  
17 They are an integral and essential part of the  
18 Permanent Injunction and cannot be ignored.

19          In other words, the Permanent Injunction  
20 language is only two paragraphs out of an 11-page  
21 order. They cannot be interpreted in isolation.  
22 For instance, the Conclusions of Law from the  
23 May 2018 order include the following Findings of  
24 Fact and Conclusions of Law: That the association  
25 is a limited-purpose association governed solely by

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1 NRS 115.1201, subsection (2) and that, as such,  
2 NRS 116.3117 is not applicable to the association  
3 because it was not expressly enumerated in  
4 Section 1201. The Court further found that the  
5 Amended CC&Rs were invalid, had no force and effect,  
6 and are in fact void ab initio.

7 The Court also found that the plaintiffs,  
8 my clients, were not parties to that prior litigation  
9 and thus were not losing parties in that litigation  
10 in that the Rosemere judgments are not against or an  
11 obligation of the plaintiffs or a debt owed by the  
12 plaintiffs. Recall, Your Honor, that these  
13 Conclusions of Law were necessary because the  
14 Lytle Trust had argued there were a myriad of highly  
15 technical arguments that all of NRS Chapter 116  
16 applied to this association.

17 THE COURT: And, sir, for the --

18 MR. SMITH: Yet the Amended CC&Rs --

19 THE COURT: And, sir, I don't want to cut  
20 you off, but I do remember this case. Go ahead, sir.

21 MR. SMITH: Great, Your Honor. I just want  
22 to set the context for where we are today because  
23 the Lytle Trust is continuing to make the same  
24 arguments to the receivership court that they made  
25 to you and which you rejected and entered Permanent

1 Injunction from keeping them from enforcing these  
2 judgments against my clients.

3 Your orders were affirmed by the Supreme  
4 Court, and so of course by the very nature of a  
5 court order, it cannot and did not address every  
6 scenario under the sun. Here these orders did not  
7 expressly prohibit the Lytle Trust from applying for  
8 appointment of a receiver as that effort had not yet  
9 taken place and was not anticipated.

10 Because of this, the Lytle Trust will argue  
11 that it did not technically violate the two  
12 Permanent Injunction paragraphs because it is the  
13 receiver, not the Lytle Trust, that will make  
14 special assessments; and the Lytle Trust did not  
15 record anything against the plaintiffs' properties  
16 or take direct actions against the plaintiffs'  
17 properties. You can see that in the Exhibit A that  
18 the Lytle Trust filed yesterday.

19 But as you look at that exhibit, you will  
20 see that the argument looks only at the Permanent  
21 Injunction paragraphs in isolation of the rest of  
22 your orders. It ignores the other ten pages that  
23 led to the Permanent Injunction language. Further,  
24 it ignores the fact that the Lytle Trust, without  
25 any notice to any property owner or this Court,

1 sought the appointment of the receiver, did not  
2 inform the receivership court about this Court's  
3 orders, and the Lytle Trust argued for a special  
4 assessment power that directly contradicts this  
5 Court's orders.

6           Despite the Lytle Trust direction, the  
7 appointment of a receiver over the association to  
8 make special assessments against the plaintiffs'  
9 properties to pay the Rosemere judgments necessarily  
10 impacts the plaintiffs' property rights. This is  
11 exactly what the Permanent Injunction was intended  
12 to protect. While the Lytle Trust can argue  
13 technicalities, there is no question that seeking a  
14 receiver to make assessments on the plaintiffs'  
15 properties is exactly the kind of activity that this  
16 Court's orders were intended to protect.

17           What makes the Lytle Trust actions  
18 especially egregious is that they went to this new  
19 Court to obtain a receiver, despite the fact that  
20 there were prior matters where such a request may  
21 have been more appropriate and then failed to  
22 provide complete information to the Court about the  
23 past history. Particularly and most importantly for  
24 Your Honor, the Lytle Trust did not inform the Court  
25 about this litigation, Your Honor's orders, or the

1 Orders of Affirmance.

2 It's strange how the Lytle Trust is making  
3 representations to this new Court about the status  
4 of nonpayment of their judgments yet did not even  
5 mention the fact that they have already made  
6 significant efforts to collect and fail because  
7 their efforts were, in fact, illegal as held by this  
8 Court. Yet it does make sense, when you see what  
9 they were asking the Court to do because this  
10 Court's orders would just get in the way of that  
11 effort.

12 The motion and reply explain how the  
13 special assessment that the Lytle Trust was  
14 advocating is impossible under this Court's orders  
15 and the Orders of Affirmance from the Supreme Court.  
16 As a limited-purpose association --

17 THE COURT: Wait, wait, wait. Slow down.

18 (The record was read.)

19 THE COURT: "As a limited-purpose  
20 association," is that specifically what you said, sir?

21 MR. SMITH: Yes, sir.

22 THE COURT: Okay. Continue after that.

23 MR. SMITH: I'll repeat the last sentence  
24 for you. As a limited-purpose association governed  
25 under NRS Chapter 116, Section 1201, Subsection (2)

1 and the provisional CC&Rs, there is no special  
2 assessment power granted to the association. The  
3 Supreme Court explained that NRS 116.1201 is plain  
4 language made clear that any power not expressly  
5 granted to a limited-purpose association by the  
6 legislature is not available to such association.

7 Now, in its Orders of Affirmance, the  
8 Supreme Court was addressing Subsection 3117 of  
9 Chapter 116, which is the lien provision. The same  
10 law and analysis apply to NRS 116.3115, which is the  
11 special assessment provision. Because that provision  
12 was not expressly enumerated, as empowered by the  
13 Nevada legislature under Your Honor's orders and as  
14 affirmed by the Nevada Supreme Court, that special  
15 assessment power does not exist and not cannot be  
16 implied to this association.

17 Now, if you recall, the Amended CC&Rs have  
18 a special assessment power, but the Amended CC&Rs  
19 were held to be void ab initio, meaning that they  
20 are void from the beginning. Yet the Lytle Trust  
21 argued to the receivership court that the Amended  
22 CC&Rs could be used to make a special assessment on  
23 my clients to pay the judgments. Now, I quote  
24 directly from that application, quote: "The Amended  
25 CC&Rs grant the association authority to assess each

1 unit for payment of judgments against the  
2 association."

3 THE COURT: That's directly in -- that's  
4 contrary to my order.

5 MR. SMITH: Exactly, Your Honor.

6 THE COURT: And, more importantly -- I  
7 mean, we can't overlook this -- I remember this case  
8 very well, and it was hotly contested and hotly  
9 litigated. And I thought as a trial judge, I was  
10 pretty patient. But ultimately it goes up on appeal  
11 to Nevada Supreme Court, and we had an extremely  
12 clear record is my recollection as far as this issue  
13 is concerned.

14 And ultimately the Nevada Supreme Court  
15 agreed with my analysis as to making a determination  
16 that this was a limited-purpose association. Their  
17 roles, duties, and responsibilities were very  
18 limited in this case. This was not a traditional  
19 Chapter 116 homeowners association. Consequently,  
20 their powers are very much limited.

21 It's my recollection -- it's been a long  
22 time since I read all the paperwork, the documents,  
23 but it was very limited to the front of the  
24 association, and I think it was planter boxes,  
25 flowers, and those types of things; and we had

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1 extensive argument on this issue, and I made a  
2 determination that the Amended CC&Rs were void  
3 ab initio, and that was my decision in this matter.

4 And so I'm trying to look at my order where  
5 I made specific conclusions of Law. For example,  
6 going back to page 7 of my order which, by the  
7 way -- and here's what I find fascinating about  
8 this: No. 1, whether you agree or disagree with  
9 court orders, court orders have to be followed.  
10 They just do.

11 This is a country where we have Rules of  
12 Law, and if you disagree with a Court's order,  
13 everyone has a right to do one thing, and that's  
14 appeal, and I have no problem with appeals. Because  
15 what I try to do, each time I hear an issue, I try  
16 to give that specific issue the time and preparation  
17 that's required for the parties and then make my  
18 best decision. All I'm doing is calling balls and  
19 strikes.

20 And so just as important, here we have the  
21 scenario where, okay, the parties exercise their  
22 rights, and they appeal. Great. That's due  
23 process. That's what America is about; right? And  
24 then at the end of the day, I'm affirmed. Now what;  
25 right? And I don't mind saying that because that's

1 how I look at this case. And these were complex  
2 issues.

3 The only concern -- and I call it a "light  
4 concern" because of the unique nature of this case --  
5 I just think our Nevada Supreme Court should issue a  
6 public decision on this issue because factually the  
7 issues of law were so unique. I feel very strongly  
8 about that, and the record was so well developed.  
9 They should have issued a published decision because  
10 I don't think we have many, if any, decisions as it  
11 relates to limited-purpose association's actions  
12 taken after the association is created, issues  
13 regarding Amended CC&Rs. I thought it was a  
14 wonderful case factually.

15 But at the end of the day, I made  
16 conclusions as a matter of law in this case. Just  
17 as important too, as I look at this order -- and  
18 this is the order that was ultimately affirmed by  
19 the Nevada Supreme Court that was found back on  
20 May 24th, 2018 -- based upon the Findings of Facts,  
21 Conclusions of Law, I issued specific orders as to  
22 what the parties could and could not do in this  
23 case.

24 And so I'm trying to figure out -- I mean,  
25 I've never seen this before, and I'm coming up on

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1 14 years and two days; right? How can a party do  
2 indirectly what it couldn't do directly; right? And  
3 that's what somebody is going to have to convince me  
4 of. Because I've looked at this, and I think the  
5 order is pretty clear. And this case was well  
6 litigated. Everyone was given an opportunity to  
7 present their side and position. It was well  
8 briefed, and I had to make some calls in this case.

9 I don't mind saying this either, as far as  
10 my determination as to this being a limited-purpose  
11 association, it wasn't really a close call for me.  
12 Just as important, my determination that the Amended  
13 CC&Rs were void ab initio, that wasn't a difficult  
14 call once I dug down a little deep and read  
15 Chapter 116 and, more specifically, 116.1201(2) and  
16 also the application of NRS 116.3117 and 116.3115  
17 and so on. I mean, I'm just trying to figure out  
18 why we're here today, to be candid with everybody.

19 And, sir, you can continue on. I just  
20 wanted to make sure the record is clear on what my  
21 thoughts are because I will always tell you what I'm  
22 thinking about.

23 MR. SMITH: Thank you, Your Honor. And  
24 that's exactly right, and I won't spend too much  
25 more of your time. I just want to address a couple

1 of the points that I think that the Lytle Trust are  
2 going to make based upon the exhibits that they  
3 filed yesterday for presentation to you today.

4 I already talked about Exhibit A. And the  
5 second one is Exhibit B, which goes directly to what  
6 I was just talking about. That appears to have  
7 arguments from their application that they filed  
8 with the receivership court. Now, the Lytle Trust  
9 is going to use that to tell you that they also  
10 informed the Court that the Amended CC&Rs were  
11 void ab initio. So we do have, in the application,  
12 the Lytle Trust talking on both sides of the issue.

13 In one sentence, they tell the Court:  
14 "You can use the Amended CC&Rs to make special  
15 assessments," and on the other hand, they tell the  
16 Court that the Amended CC&Rs are void ab initio.  
17 Now, Your Honor, that -- even if they qualified  
18 their statements, it does not change the fact that  
19 the Lytle Trust directly argued to the receivership  
20 court for use of the Amended CC&Rs to make a special  
21 assessment. That is in direct violation of your  
22 orders.

23 The Lytle Trust may argue further that  
24 those were typos or errors that should have been  
25 deleted prior to filing. At least that is what they

1 argued to Judge Kishner last week. Your Honor, the  
2 first -- the quote that I read to you earlier was  
3 from a section heading, not a thorough argument or  
4 dicta. Even if it were included in error, isn't  
5 that an admission that is too little, too late when  
6 the receivership court has already appointed a  
7 receiver based upon those arguments?

8 It also appears, turning to the Exhibit C  
9 that the Lytle Trust filed, that they were arguing  
10 that there must be a special assessment power  
11 because assessments were previously made by the  
12 association to pay the association's legal fees in  
13 its disputes with the Lytle Trust over 12 years ago.

14 Now, as you look at that, you'll see the  
15 few highlighted examples. It appears that the prior  
16 assessments for legal fees were made when the  
17 association was acting under Amended CC&Rs before  
18 they were legally determined to be void ab initio.  
19 Simply because assessments were made in the past  
20 does not mean that the association has the power to  
21 make assessments now. The facts and circumstances  
22 are much different today than they were in 2006,  
23 2007, or 2008.

24 THE COURT: Well, actually, sir, I don't  
25 want to cut you off. But it was almost akin to a

1     rogue association. I remember the facts of this  
2     case quite well, considering I probably haven't  
3     looked at it in great detail in, I guess, over two  
4     years. It's going to be two years coming up in two  
5     days.

6             And, understand, this is the Order Granting  
7     Summary Judgment. The hearing in this matter was  
8     heard probably -- yeah, I was correct -- I think  
9     back in March of 2018, and I guess an ultimate  
10    decision was made sometime thereafter. But that  
11    would have been at or around the time that there was  
12    a significant law and motion practice going on in  
13    this case, and there might have -- it's been awhile.  
14    But if I remember correctly, there might have been  
15    motions for reconsideration and all sorts of  
16    significant law and motion practice in this case.

17            But at the end of the day, I thought this  
18    order was pretty clear as it related to the  
19    association and its powers and classification in  
20    this case because it was a unique case. And  
21    ultimately I made by decision, and it appears that  
22    the Nevada Supreme Court didn't have much of any  
23    problem on that because I was affirmed. It wasn't  
24    remanded for any, I don't think, for additional  
25    determinations. I just felt it was a pretty clear

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1 case once you dug in and you put in the necessary  
2 time, as it relates to the definitions of  
3 "limited-purpose associations," the powers and  
4 rights and limitations of that type of association  
5 versus a traditional Chapter 116 homeowners  
6 association.

7 MR. SMITH: Yes, Your Honor. And thank  
8 you. So in conclusion, I just want to say that it  
9 is abundantly clear to my clients that the entire  
10 purpose of the Lytle Trust applying for receiver was  
11 to have that receiver collect money from my clients  
12 to pay the Rosemere judgment.

13 These are the very same judgments that this  
14 Court held were not an obligation of the plaintiffs  
15 and, in fact, enjoined the Lytle Trust from taking  
16 any action to enforce the judgment against the  
17 plaintiff. The Lytle Trust technicalities do not  
18 change that reality.

19 If this motion is denied, the result would  
20 be that the Lytle Trust would be able to receive  
21 payment from the association through special  
22 assessments on the plaintiffs' properties. In other  
23 words, the plaintiffs' property rights will be  
24 infringed, again, and the plaintiffs will be  
25 required to pay the Rosemere judgments, which this

1 Court determined was not their obligation or debt.  
2 This was the very purpose for which this case was  
3 instituted in the first place.

4 If this motion is denied, everything the  
5 plaintiffs have done to protect themselves from the  
6 Lytle Trust's overreaching and, in fact, illegal  
7 actions will be for nothing, and we simply don't  
8 believe that would be the proper result. And  
9 respectfully request, based upon that and upon our  
10 papers, that this Court grant our motion and hold  
11 the Lytle Trust in contempt for violating its  
12 orders.

13 THE COURT: Okay. Thank you, sir.

14 Ms. Wang or Mr. Foley, anything you want to  
15 add? Can you hear me? Did we lose them?

16 MR. FOLEY: I'm sorry. I had mine on mute.  
17 Dan Foley. Sorry, Christina.

18 Very briefly, I'm appreciative of the Court  
19 having its recollection of this case. But one thing  
20 I want to remind the Court of is when you issued  
21 your first injunction in this case, which is when I  
22 was the sole party, the plaintiff's counsel in the  
23 case, you expunged these abstracts of judgment, and  
24 actually you ordered the Lytles to record  
25 withdrawals or rescissions of those abstracts of

1 judgment; and what they did, at that time, they did  
2 record rescissions of those, but they simultaneously  
3 then recorded lis pendens against the same properties  
4 so that the same cloud on the title would remain in  
5 effect.

6 I was forced to bring another motion to  
7 expunge those lis pendens because they wouldn't do  
8 it voluntarily, and you issued another order  
9 expunging those lis pendens. This is the same kind  
10 of thing that they've done now is, you know, in  
11 their third bite at the apple, their next tactic.  
12 And I think their violation here is actually  
13 absolutely a direct violation.

14 In your first injunction in my case, you  
15 enjoined them, the Lytles, permanently enjoined them  
16 from taking any action in the future against the  
17 plaintiffs or their property based on the Rosemere  
18 litigation via --

19 MR. SMITH: Your Honor, Your Honor --

20 THE COURT: Hold it, hold it. Go ahead.

21 Mr. Waite, you'll get a chance to do that.

22 MR. WAITE: Yes. What's that?

23 THE COURT: You'll get a chance to, without  
24 question, put your entire position on the record. I  
25 have no problem with that, sir.

1 MR. WAITE: Well, my objection is they  
2 are -- Mr. Foley is trying to expand the scope of  
3 this hearing which, pursuant to Mr. Smith's motion,  
4 is only about your May 2018 Permanent Injunction.  
5 And if you look at the opening papers, it's only  
6 about the May 2018 Permanent Injunction, has nothing  
7 to do with the 2017 injunction.

8 And for the record, I object to any attempt  
9 to, on the fly, expand this hearing to include that  
10 order as well.

11 THE COURT: Okay. Objection noted, sir.

12 MR. FOLEY: And I believe the language --  
13 again, this is Dan Foley -- is the same as in the  
14 order of 2018, that they're enjoined from taking  
15 future action against the plaintiffs for their  
16 property based on the Rosemere litigation and the  
17 attorneys' fee judgment.

18 And as Mr. Smith pointed out, in the Motion  
19 to Appoint the Receiver that the Lytles filed, they  
20 reference the Rosemere litigation; they reference  
21 the specific judgment, and they request relief in  
22 the form of a receiver to issue a special assessment  
23 upon all the owners within the association to  
24 satisfy the judgments. So that's a direct violation  
25 of Your Honor's injunction which, again, was broad:

1 Any action in the future against the parties and  
2 their properties based on the Rosemere litigation  
3 and the attorneys fee judgment. That's all I have  
4 to add to Mr. Smith's argument.

5 Thank you, Your Honor.

6 THE COURT: Thank you, sir.

7 Ms. Wang, anything you want to add, ma'am?

8 MS. WANG: Yes, Your Honor. Just very  
9 briefly. Again, this is Christina Wang on behalf of  
10 Robert and Yvonne Disman.

11 I just want to note, Your Honor, that this  
12 case has been going on effectively since 2009, that  
13 these series of cases instituted by the Lytle Trust.  
14 Your Honor rendered a decision, in the first instance,  
15 with respect to Mr. Foley's clients, stating that  
16 the Lytle Trust cannot attempt to enforce their  
17 judgment collected in the Rosemere-I litigation  
18 against the property owners within the Rosemere  
19 association.

20 But from that point on is when the  
21 Lytle Trust has shown a systematic disregard of the  
22 Court's orders, as well as the previous Court's  
23 orders upon which Your Honor based, in part, your  
24 decision in this case. Following Your Honor's  
25 decision, the very first decision regarding the

1 injunction in this case, what did the Lytle Trust  
2 do? They amended their pleadings to state: Fine,  
3 there is an order stating that we cannot attempt to  
4 collect our judgment in the Rosemere-I litigation  
5 against the property owners. So now we're going to  
6 attempt to collect our judgment obtained in the  
7 Rosemere-II litigation against the property owners.

8 So they completely ignored the import of  
9 the Court's decision and proceeded down the track of  
10 attempting to try to collect on their second  
11 judgment. Thereafter, the case was transferred  
12 inform Judge Bailus because there was a conflict of  
13 interest within this Court that subsequently was  
14 resolved. And Judge Bailus, following Your Honor's  
15 decision as the law of the case, found no, based  
16 upon Your Honor's conclusions, they could not  
17 attempt to enforce the judgment that they obtained  
18 against the association in the Rosemere-II and also  
19 subsequent litigation against the individual  
20 property owners and their property.

21 That is the decision that Judge Bailus made  
22 following Your Honor's initial decision as the law  
23 of the case. Once again, after that, after that  
24 order came out in May of 2018, the Lytle Trust, once  
25 again, said: No, we don't like this order. So what

1 do they do? They go ahead and, in 2018, filed the  
2 receiver action in Judge Kishner's chambers; and  
3 through that, they have a receiver appointed who is  
4 attempting to do right now what all previous orders  
5 have said that they are not allowed to do, which is  
6 attempting to enforce their judgments against the  
7 HOA against the individual property owners, Rosemere.

8           Regardless of how they try to style all of  
9 their different actions and courses of conduct, the  
10 one thing they are seeking to do, which Your Honor  
11 said they cannot do, is that they are seeking to  
12 escort judgments obtained against the HOA against  
13 these individual homeowners, and that is the whole  
14 point of the appointment of the receiver.

15           Your Honor's decision, in the first  
16 instance, was upheld by the Nevada Supreme Court.  
17 Judge Bailus's subsequent decision, based upon  
18 Your Honor's initial decision, was also affirmed by  
19 the Nevada Supreme Court. So I don't know how many  
20 ways the Lytle Trust is going to attempt to thwart  
21 the Courts' decisions and orders unless Your Honor  
22 shuts them down.

23           This vendetta against the association has  
24 been going on long enough. But the one thing that  
25 Your Honor made clear is that they're not allowed to

1 go after these individual property owners with  
2 respect to this vendetta. Currently, the Lytles  
3 have over a million dollars worth of judgments that  
4 they collected against the HOA.

5 No matter, again, how they style what  
6 they're trying to do or explain in technicalities  
7 what they're trying to do, they're trying to collect  
8 over a million dollars of assessments against seven  
9 or eight individual properties in Rosemere through  
10 these assessments that the receiver was appointed to  
11 make.

12 And I want to just bring up one last  
13 important point that Your Honor included in your  
14 original order, which is that Your Honor has found  
15 and agreed with the previous District Court decision  
16 in Rosemere-I, that the association -- this is found  
17 page 3 of Your Honor's decision, your original  
18 decision stating: "The association did not have any  
19 powers beyond those of the property owners'  
20 committee designation in the original CC&Rs since we  
21 too care for the landscaping and other common  
22 elements of Rosemere's Estate as set forth in  
23 paragraph 21 of the original CC&Rs."

24 So I do not understand from where the  
25 Lytle Trust insists that there's a receiver who has

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1 the power to impose any sort of assessment designed  
2 to collect on judgments that they obtained against  
3 the HOA when there has been multiple reviews of the  
4 specific powers that the supposed HOA and Your Honor  
5 found that this HOA has those limited powers given  
6 to it under the original CC&Rs and as affirmed by  
7 the Nevada Supreme Court.

8 So in summation, Your Honor, cutting away  
9 all of the arguments regarding how they're technically  
10 not in violation because the order doesn't say they  
11 can't go and institute another action to get a  
12 receiver appointed and for the receiver to attempt  
13 to collect on these judgments, just because the  
14 order doesn't say that they're not in violation of  
15 the order, a Court order cannot contemplate every  
16 action that a party may attempt to undertake; and  
17 especially it cannot look into the future and, in  
18 the context of this case, anticipate every single  
19 task or tactic that the Lytle Trust may try to  
20 employ because they have a lot of those.

21 But the intent of the order is clear. The  
22 basis for the order is clear. The findings in the  
23 order are clear. Orders have been affirmed, and the  
24 Lytle Trust must be stopped from violating these  
25 court orders or, at the end of the day, they will be

1 emboldened to continue on in their actions with  
2 respect to, frankly, harassing these individual  
3 homeowners in perpetuity.

4 Your Honor, I yield the floor. Thank you.

5 THE COURT: Thank you, ma'am.

6 All right. Mr. Waite, sir.

7 MR. WAITE: Thank you, Your Honor.

8 Again, Dan Waite for the Lytle Trust. I  
9 have some prepared remarks. But I want to address,  
10 first of all, some of the things that have been said  
11 by my colleague counsel because there's an  
12 important, a very important point that is being  
13 overlooked here, and that is that with all the  
14 parties that are in front of you, there is an entity  
15 that is not in front of you, and that is the  
16 association.

17 This lawsuit and the appeal that arose from  
18 this lawsuit regarded one thing, and that was the  
19 relationship between the Lytle Trust and these  
20 homeowners and what the Lytle Trust could or could  
21 not do, under NRS 116, to enforce its judgments  
22 directly against these homeowners even though these  
23 homeowners were not a party to the actions that gave  
24 rise to the judgment.

25 THE COURT: Now, Mr. Waite, I don't want to

1 cut you off. But where does it say in my order  
2 "directly"? Because I'm looking here, and this is  
3 on page 10 of my order, and this starts out at  
4 line 10, which provides as following, quote: "It is  
5 hereby further ordered, adjudged, and decreed that  
6 the Lytle Trust is permanently enjoined from  
7 recording and enforcing judgments obtained from the  
8 Rosemere litigation I, Rosemere litigation II, and  
9 Rosemere litigation III, or any other judgments  
10 obtained against the association, against the  
11 September property, Zobrist property, Sandoval  
12 property, or Gegen property."

13 I mean, to me, that appears to be fairly  
14 clear that they're precluded from doing anything as  
15 it relates to enforcing and recording those  
16 judgments.

17 MR. WAITE: Well, Your Honor, there's  
18 another paragraph. You ask "Where does it say  
19 directly?" Look at the next paragraph, which is the  
20 second paragraph of your Permanent Injunction. The  
21 first paragraph is very specific, Your Honor. The  
22 first paragraph addresses what the Lytle Trust  
23 cannot do as it relates to recording or enforcing  
24 their judgment against the properties.

25 THE COURT: Okay. I don't want to cut you

1 off, Mr. Waite, because I really respect you. But,  
2 understand, that's just another provision contained  
3 in the order. Yes, they can't do that. But, in  
4 addition, they can't -- they're permanently enjoined  
5 from recording or enforcing judgments obtained as a  
6 result of the Rosemere litigation, and so they're  
7 not mutually inclusive; they're in addition to.

8 MR. WAITE: Well, if Your Honor is  
9 saying -- and I don't believe so, and I certainly  
10 hope not -- but if Your Honor is saying that the  
11 Lytle Trust received three judgments, which are  
12 valid, are final, and today amount to about a  
13 million-eight, including post-judgment interest, if  
14 Your Honor is saying that the Lytle Trust have  
15 absolutely no judgment creditor rights to try to  
16 collect that, those judgments in any way, shape, or  
17 form, then perhaps we violated Your Honor's order.

18 But I would --

19 THE COURT: And, Mr. Waite, I don't want to  
20 cut you off because I do -- I've known you for a  
21 long time. I really respect you, and you do a great  
22 job. But isn't that what my order says as it  
23 relates to --

24 MR. WAITE: No.

25 THE COURT: When it says "is permanently

1 enjoined from recording and enforcing judgments."

2 MR. WAITE: And it goes on. It goes on,  
3 Your Honor. It has to be read not syllable by  
4 syllable. It has to be read in context. "Enjoined  
5 from recording or enforcing the judgments," what,  
6 "obtained in the litigation or any other judgments  
7 against the association," and here's what they can't  
8 do: "They can't record or enforce those judgments  
9 against the September property, Zobrist property,  
10 Sandoval property, or Gegen property."

11 Your Honor, you understand what you  
12 intended. I'm telling you what it reads. And the  
13 way that it reads, to me, it is enjoining enforcing  
14 or recording those judgments against those  
15 properties. If that paragraph, Your Honor, were as  
16 broad as you're saying that it is and certainly as  
17 the plaintiffs now want it to be read, there would  
18 be no purpose whatsoever for the next paragraph.

19 The next paragraph -- the next paragraph  
20 would be completely redundant and unnecessary. But  
21 the first paragraph, Your Honor, is fairly limited.  
22 Remember the context of this action. We recorded  
23 one of our three judgments, and the homeowners  
24 wanted to expunge that judgment, and they wanted to  
25 ensure that the other two judgments were never

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1 recorded against their properties, like the first  
2 one was. That's what's addressed in the first  
3 paragraph of this Permanent Injunction. The second  
4 paragraph expands upon that.

5 THE COURT: And, Mr. Waite, I don't want to  
6 cut you off, sir. I don't. But I think that's one  
7 of the reasons why -- and you can correct me if I'm  
8 wrong or not -- but this is how I interpreted it, I  
9 guess is the way to say it. That's one of the  
10 reasons why Mr. Waite (sic) wanted to point out the  
11 history of this case because when I made one of my  
12 initial decisions as it related to the abstract of  
13 judgments in this case that were recorded, the trust  
14 went out and filed lis pendens; right?

15 And that's what they did after I issued --  
16 and so you would say, you would think that if I  
17 said, "Look, those abstracts of judgments are not  
18 viable. That was an improper recording. I made a  
19 determination as far as those are concerned," you  
20 would think you wouldn't go out and file a  
21 lis pendens; right? But they did, you know.

22 And I understand, I don't think you were  
23 involved in the case at that point. But I sat back,  
24 and I thought to myself, I remember when that  
25 hearing occurred, and I'm glad Mr. Foley brought it

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1 up. I was saying to myself: why would you go out  
2 and file a lis pendens in light of the law and  
3 motion practice and decisionmaking that has  
4 occurred?

5 And so it seems to me if you look at the  
6 language, the reason why the language was broad as  
7 it relates to "permanently enjoined from recording  
8 and enforcing judgments," that's pretty clear to me  
9 that that stands for the proposition no further  
10 action as it relates to judgments obtained in the  
11 Rosemere litigation I, Rosemere litigation II, and  
12 Rosemere litigation III or any other judgments  
13 obtained against the association.

14 And what's fascinating about it too is  
15 this: we can't look at it just limited to that  
16 order and that specific provision because I made  
17 factual determinations as it relates to -- for  
18 example, I made a determination as it relates to  
19 Conclusions of Law on page 7, paragraph 2, that this  
20 was a limited-purpose association which, to me, I  
21 remember when this was being briefed, I thought it  
22 was pretty clear on that.

23 And, further, it stands for the proposition  
24 that Chapter 116, in a traditional sense as it  
25 relates to homeowners associations, is not

1 applicable to this limited-purpose association.

2 MR. WAITE: Your Honor, we are not  
3 disputing that the association is a limited-purpose  
4 association. We are not advocating for the  
5 application of 116.3117.

6 But, again, what I think is being  
7 overlooked here is this action, this action regarded  
8 the relationship between the Lytle Trust and the  
9 homeowners. They recorded, they thought -- and  
10 you're right, I wasn't involved; I've only been  
11 involved for the last couple months, not the last  
12 couple of years -- but the Lytle Trust believed that  
13 NRS 116.3117 allowed them a statutory vehicle to  
14 bypass, to leapfrog over the association judgment  
15 debtor and to record their judgment, their judgment  
16 liens, directly against the homeowner properties.  
17 You said no, and the Supreme Court agreed with you.  
18 They affirmed that.

19 But this action has only to do with what  
20 the Lytle Trust can't do as it relates to the  
21 homeowners. Your Honor, the association is not here  
22 as the Lytle Trust relationship as a judgment  
23 creditor vis-a-vis the association as a judgment  
24 debtor is not before you, never has been before you.

25 And I'll ask it again, and I'll ask it

1 maybe not as a rhetorical question. Pending the  
2 answer, quite honestly, I may have nothing else to  
3 say. I may have nothing that I know of to say. But  
4 did you intend by your Permanent Injunction here to  
5 strip the Lytle Trust of all of its judgment  
6 creditor rights against the judgment debtor  
7 association?

8 THE COURT: well, the association wasn't a  
9 party, but the bottom line is this: I stripped the  
10 Lytle Trust of their ability and right to enforce  
11 those judgments vis-a-vis the homeowners in this  
12 case. For example, they couldn't do -- wait. Let  
13 me finish.

14 For example, they couldn't go out and hire  
15 a lawyer to specifically enforce those judgments.  
16 They couldn't hire a collection agency. I would  
17 think filing a motion seeking to appoint a receiver  
18 because the association apparently is, from what I  
19 can tell, insolvent -- just as important too, and I  
20 don't mind telling you this, I sit back, and I  
21 pondered this question when I was reviewing the  
22 points and authorities. You know, we have a  
23 receiver, and the receiver takes over.

24 And, understand, this is business court.  
25 I've been doing this now for about two-and-a-half

1 years, and I understand the role of a receiver. It  
2 seems to me -- and I realize the receiver is not  
3 arguing this matter today, and that's another day.  
4 That's Judge Kishner's issue that she has to deal  
5 with. So I'm not. But I was sitting down saying to  
6 myself rhetorically: Okay. Receivers are -- and I  
7 get their importance.

8 But, you know, when it comes to Chapter 116  
9 and the like, it appears to me -- and I haven't seen  
10 a receivership, to be candid with everyone, happen  
11 very much, if ever, as it relates to a homeowners  
12 association. But remember this, the HOA does have  
13 certain duties and responsibilities as it relates to  
14 the unit owners that are clearly defined under  
15 Chapter 116. I understand it has to use the Best  
16 Judgment Rule. I understand it has fiduciary-like  
17 responsibilities too.

18 And so I pondered to myself, what should a  
19 receiver do under the circumstances of this case  
20 when, if they've been given a copy of a court order  
21 that stands for the proposition that, you know what,  
22 the court has ruled and been affirmed by the Nevada  
23 Supreme Court as it relates to its order, and the  
24 court has been affirmed specifically as it relates  
25 to one important section, quote: "That the Lytle

1 Trust" -- excuse me -- "is permanently enjoined from  
2 recording or enforcing judgments obtained as a  
3 result of these pieces of litigation." Right? And  
4 that's a different issue.

5 MR. WAITE: Your Honor, Your Honor, there  
6 is no circumstance -- there is no circumstance under  
7 this receivership where the Lytle Trust focused --  
8 if I could focus you on what you just read. There  
9 is no circumstance under this receivership where the  
10 Lytle Trust will be recording anything against these  
11 homeowners' properties.

12 And with all due respect, Your Honor, there  
13 is a significant difference between a judgment  
14 creditor hiring an attorney, who is their agent, or  
15 hiring a collection agency, who is their agent, to  
16 do of course -- of course, their agent can't do what  
17 the principal is precluded from doing him or  
18 herself.

19 But in the case of a receiver, Your  
20 Honor -- and this is the point we tried to make in  
21 our opposition that the plaintiffs fatally  
22 misunderstand; and, Your Honor, I fear that it's  
23 being lost on you as well -- that the receiver is  
24 not, is not, as a matter of law, is not the agent of  
25 the Lytle Trust. Someone has to go and to procure

1 and ask for a receiver -- in this case, it's the  
2 Lytle Trust -- but that doesn't render the receiver  
3 the agent of the procuring party.

4 Once appointed, the receiver becomes an  
5 officer the Court, answers to the Court, is an agent  
6 of the Court, and in this instance, was appointed to  
7 take control of and act on behalf of the association.  
8 Therefore, everything that -- everything  
9 post-appointment that the receiver does is not  
10 actioned by the Lytle Trust. It is actioned by the  
11 association.

12 THE COURT: Okay. I get that. Wait a  
13 minute. I don't want to cut you off, Mr. Waite. I  
14 understand that. But I think you're overlooking my  
15 point because, in essence, this isn't a corporation.  
16 This is a homeowners association. It's a limited  
17 purpose.

18 MR. WAITE: It is a corporation, Your Honor.

19 THE COURT: Pardon?

20 MR. WAITE: It is a corporation. It's an  
21 NRS 82 corporation.

22 THE COURT: But it has different duties and  
23 responsibilities. I don't think Chapter 116  
24 specifically applies to our run-of-the-mill Nevada  
25 corporations because there's different duties and

1 responsibilities that they have to the unit owners.  
2 we can all agree on that.

3 But my point is this: It seems to me that,  
4 under the facts of this case, a receiver would look  
5 at this order and say, "Look, Judge, I've been  
6 appointed as a receiver in this matter, but I have  
7 grave concerns in this regard: I have an order  
8 that's been issued by a trial judge back on May 24th  
9 of 2018 that specifically stands for the proposition,  
10 Judge Kishner, that this trust is permanently  
11 enjoined from recording or enforcing judgments  
12 obtained as a result of this litigation"; right?

13 That's a different animal than a  
14 traditional receivership and creditors and the like.  
15 This is a totally different animal. It just is  
16 because there's been litigation here. And just as  
17 important too, we have specific findings by a trial  
18 court that says, look, these -- and let me find it  
19 right here, and it's really clear as it relates to  
20 the impact in this case, and it was appealed.

21 For example, on page 7, line 25,  
22 paragraph 4, under the Conclusions of Law: "As a  
23 result of the Rosemere litigation I, the Amended  
24 CC&Rs are judicially declared to be improperly  
25 adopted and recorded. The Amended CC&Rs are invalid

1 and have no force and effect and were declared  
2 void ab initio." Right? And that's in this order.

3 And so I'm trying to figure out how --

4 MR. WAITE: Yes.

5 THE COURT: -- HOA, in light of this  
6 Court's decision being affirmed by the Supreme Court  
7 could -- and the receiver for an HOA that's not a  
8 traditional HOA but a very limited and purposed  
9 homeowners association can sit there and owing a  
10 duty and responsibility to the unit owners, i.e.,  
11 members, say, "Look, I think I'm going to enforce  
12 this one-point-something-million-dollar judgment  
13 against the owners," I don't understand. I really  
14 don't. It just doesn't make sense to me.

15 But go ahead, sir.

16 MR. WAITE: Your Honor, I don't know. I  
17 don't know where, what more to say. I'm clearly not  
18 making my point or you're not buying it.

19 I think, Your Honor, quite candidly, you're  
20 looking at the first paragraph of your Permanent  
21 Injunction, and you're putting a period where there  
22 is no period. You're looking at it and saying that  
23 "I restricted the Lytle Trust from recording or  
24 enforcing their judgment against these homeowners,  
25 period, end of story."

1           And we're saying, even if that were the  
2 case, Your Honor, going and getting a receiver to  
3 take control of the association is not actions  
4 against the homeowners. It's actions against the  
5 association, our judgment debtor. It is Horn Book  
6 law that a judgment creditor has a right to seek a  
7 receiver over a judgment debtor not paying, and  
8 that's what we did. These homeowners weren't even  
9 parties to that receiver action. But there, the  
10 party is the association. The association is not a  
11 party here.

12           The issue regarding whether the receiver  
13 was properly vested with the powers that  
14 Judge Kishner's order appointing a receiver, whether  
15 those were proper or whether they were beyond the  
16 powers contemplated by NRS 116, the provisions that  
17 are applicable to limited-purpose associations or  
18 beyond those that are in the original CC&Rs -- you  
19 see, Your Honor, one of the things, that issue is  
20 before Judge Kishner. She's got it under advisement  
21 right now.

22           But just part of the problem of  
23 addressing this issue here is you're not getting the  
24 benefit of the arguments that are made there. For  
25 example, just as a single example, Your Honor, we

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1 argued to Judge Kishner that because this association,  
2 whether it's a limited-purpose association or  
3 otherwise, and it is a limited purpose association.  
4 it is a nonprofit corporation. That is the  
5 corporate vehicle that this association chose to  
6 operate under, under an NRS 82 nonprofit  
7 corporation.

8 And we contend that, as a nonprofit  
9 corporation, it is subject to all of the obligations  
10 imposed by NRS 82 and is vested with all of the  
11 powers granted by NRS 82 to nonprofit corporations.  
12 And, for example, NRS 82.131, sub (5) grants to  
13 every nonprofit corporation the power to levy  
14 assessments, dues, and so forth. And so I can't  
15 emphasize it enough, Your Honor, the action by the  
16 Lytle Trust in seeking the appointment of a receiver  
17 over the association was an attempt to enforce their  
18 judgment against the association.

19 Now, what the association -- or in this  
20 case, the receiver acting in the capacity of the  
21 association -- does to not commit -- the receiver  
22 isn't our agent to collect our judgment. The  
23 receiver is the agent of the association to pay the  
24 judgment, and what the receiver does to pay the  
25 judgment -- hypothetically, Your Honor,

1 hypothetically, this is a strange hypothetical, but  
2 frequently in strange or extreme hypotheticals, it  
3 helps to make a point. If, for example, the  
4 receiver went in and got control of the books and  
5 records of the association and discovered, lo and  
6 behold, \$1.8 million in assets, liquid assets that  
7 everybody forgot about and was able to satisfy the  
8 Lytle Trust judgments with those assets, that would  
9 be a satisfaction of our judgments without any  
10 assessment whatsoever against the homeowners.

11 So, clearly, simply getting the appointment  
12 of a receiver isn't and can't constitute action --  
13 let me rephrase it. Getting a receiver over the  
14 association isn't action against the homeowners.  
15 It's clearly not direct action against the  
16 homeowners. And, Your Honor, I would suggest it's  
17 not even indirect action.

18 THE COURT: Isn't it a conduit to get to  
19 the homeowners in this case and in direct violation  
20 of my order? Because it's really clear they should  
21 take no action. Because at the end of the day --

22 MR. WAITE: Can I give you a hypothetical?  
23 Can I give you an example, Your Honor. Actually,  
24 this was part of my prepared argument. I'd like to  
25 give you a hypothetical to consider.

1 THE COURT: Absolutely.

2 MR. WAITE: If I could.

3 THE COURT: Mr. Waite, you know how I work.  
4 Of course you can make a hypothetical. You can.  
5 Try to convince me.

6 MR. WAITE: I'm trying, Your Honor.

7 So what I would like you to do is to  
8 consider two similar but slightly different  
9 hypotheticals. And in the hypothetical, I have  
10 three judgments against XYZ Corporation. My  
11 judgments, however, are not against XYZ shareholders  
12 or XYZ's customers. In fact, neither the  
13 shareholders nor the customers were parties to the  
14 lawsuits giving rise to my judgments against XYZ.

15 And in the first hypothetical, I record one  
16 of my three judgments against the shareholders'  
17 homes; and in the second hypothetical, I similarly  
18 record one of my judgments against the customers'  
19 homes. The shareholders and the customers sue me.  
20 But they don't include XYZ Corporation as a party.  
21 After all, their beef is with me as the judgment  
22 creditor, not the judgment debtor, XYZ Corporation.  
23 They claim in the lawsuit that I improperly  
24 leapfrogged over the judgment debtor, and I'm trying  
25 to enforce judgment directly against them. They

1 want the judgment expunged from their home and they  
2 want to ensure -- they want that injunction to make  
3 sure that, in the future, I don't record any of my  
4 other two judgments against their home.

5 Now, in those hypotheticals, the  
6 shareholders and the customers prevail. My lien is  
7 expunged, and a Permanent Injunction is entered  
8 against me, precluding me from enforcing any of my  
9 judgments against the shareholders or the customers.  
10 Continuing the hypothetical, Your Honor, as a  
11 judgment creditor, with a judgment debtor who's not  
12 paying, I seek and obtain the appointment of a  
13 receiver over XYZ Corporation. The receiver takes  
14 over the company, and in the first hypothetical, the  
15 receiver uses the power vested in her to make a  
16 capital call to all shareholders to pay the  
17 judgment.

18 And in the second hypothetical, the  
19 receiver uses the power vested in him to raise the  
20 price of the products that XYZ sells to its  
21 customers in order to satisfy the judgment and  
22 thereby relieve XYZ of its judgment liability.  
23 Your Honor, under these hypotheticals which, of  
24 course, are very similar to the situation we have  
25 here, I don't believe anyone would credibly claim

1 that I violated a Permanent Injunction simply by  
2 exercising my judgment creditor right to seek  
3 appointment of a receiver over XYZ.

4 XYZ Corp, which of course is the  
5 association here, wasn't a party to the Permanent  
6 Injunction actions. Further, the Permanent  
7 Injunction did not strip me of my valid judgment  
8 creditor rights against XYZ, my judgment debtor,  
9 including it didn't strip me of my right to seek a  
10 receiver over XYZ.

11 In order to hold me in contempt, the  
12 shareholders and customers in my hypothetical are  
13 going to have to overcome two insurmountable  
14 hurdles: First they're going to have to  
15 demonstrate, by clear and convincing evidence, that  
16 the receiver's actions then affected them, the  
17 capital call and the price increase, was actioned by  
18 me. That, of course, fails as a matter of law  
19 because the receiver is not my agent. As I've  
20 already mentioned, the receiver is the agent and  
21 officer of the court.

22 Second, they're going to have to convince  
23 the Court that, despite the plain language of the  
24 Permanent Injection that only affected what I  
25 couldn't do, vis-a-vis, the shareholders and

1 customers, that the Permanent Injunction is expanded  
2 beyond its express terms to also affect and strip me  
3 of my judgment creditor rights against the nonparty  
4 corporation. And that's what we have here,  
5 Your Honor, I believe.

6 And when we look at the language of the  
7 order where I'm saying that you put a period after  
8 "obtained against the association" in the first  
9 paragraph, I'm pointing out that the words that  
10 follow give meaning and affect that entire paragraph  
11 against what can't anyone -- what can't the Lytle  
12 Trust do. They cannot record or enforce their  
13 judgments obtained anywhere against the judgments  
14 they obtained against the association.

15 They can't enforce or record those against  
16 the September property, the Zobrist property, the  
17 Sandoval property, or the Gegen property. So in  
18 seeking the appointment of a receiver, did the  
19 Lytle Trust record anything? No. There's no  
20 allegation of that. Does seeking the appointment of  
21 a receiver over the association constitute enforcing  
22 the Lytle Trust judgment against the homeowners'  
23 properties? Also no. The homeowners haven't even  
24 claimed otherwise.

25 Going to the second paragraph where that

1 "directly" word is used, did the Lytle Trust request  
2 for the appointment of a receiver over the  
3 association constitute direct actions against the  
4 homeowners or their properties? No.

5 Your Honor, the issue here is not whether  
6 the Lytle Trust efforts to collect its judgment may  
7 somehow indirectly affect the homeowners. Unlike my  
8 hypotheticals, the association doesn't manufacture  
9 widgets to generate revenues. The association's  
10 only source of revenue is from the homeowners in the  
11 form of dues and assessments. Thus, Your Honor,  
12 collecting the judgments will very likely affect the  
13 homeowners, including the Lytle Trust, who is a  
14 homeowner.

15 For example, if the judgment was not  
16 \$1.8 million but \$1,800, let's just say, and let's  
17 also say that the association's entrance gate needed  
18 an \$1,800 repair. The association might assess each  
19 of the nine homeowners \$200 to pay for the gate  
20 repair. And when the homeowners paid that \$200 gate  
21 repair assessment and that money came into the  
22 association's bank account, then a judgment creditor  
23 could -- the Lytle Trust could execute on the  
24 account to satisfy \$1,800 judgment.

25 And in that event, Your Honor, the

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1 association would go back to the homeowners and say:  
2 "Good news, bad news. The good news is that we  
3 don't owe that \$1,800 judgment anymore. The bad  
4 news is is that everyone has to pitch in another  
5 \$200 because the gates still needs repaired."

6 Again, the issue is not whether the Lytle  
7 Trust collection efforts against the association may  
8 have some indirect impact by the association on the  
9 homeowners. The only way to guarantee there is  
10 never any impact on the homeowners is to completely  
11 strip the Lytle Trust of all of its judgment  
12 creditor rights and essentially void their  
13 judgments.

14 Your Honor, in closing, unless you have  
15 other questions, as you know, the standard to hold  
16 someone in contempt is very high. The plaintiffs  
17 here bear the burden of showing, by clear and  
18 convincing evidence, that the Lytle Trust violated a  
19 specific and definite court order. Pause there for  
20 a moment. I heard opposing counsel made their  
21 arguments and even concessions about how they didn't  
22 technically violate it, and but --

23 THE REPORTER: I'm sorry.

24 (The record was read.)

25 THE COURT: Wait, wait. Slow down.

1 Mr. Waite, slow down. You said "technically violate  
2 it," the arguments by the other side.

3 MR. WAITE: I'm sorry. I'm sorry. I'll  
4 slow down. What I said, Your Honor, is that I heard  
5 opposing counsel argue and ask you to concede that  
6 the Lytle Trust action, in seeking the appointment  
7 of a receiver, wasn't a technical violation of this  
8 Court's orders but it violated the intent of the  
9 Court's order.

10 But the standard, Your Honor, the high  
11 standard for holding someone in contempt of a court  
12 order is they have to be in violation, by clear and  
13 convincing evidence, of having violated a clear --  
14 I'm sorry -- the phrase is "specific and direct  
15 order." So, you know, you have to go off of the  
16 language in the order if we're going to hold someone  
17 in contempt.

18 What they want you to do is go beyond the  
19 express terms of the Permanent Injunction, and they  
20 want you to essentially rule as having completely  
21 stripped the Lytle Trust of its judgment creditor  
22 rights. Your Honor, I just don't believe that's  
23 what Your Honor did. And if that is what you did  
24 and what you intended, to strip them all of their  
25 judgment creditor rights against the association, I

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1 would ask you to please clarify the record for here  
2 and now.

3 The Lytle Trust respects this Court's  
4 orders, all of them; and as set forth in the papers  
5 and the arguments here, they did not violate the  
6 terms of the Permanent Injunction. I'll say it  
7 again. I don't believe Your Honor would have  
8 completely stripped the Lytle Trust of all of their  
9 judgment creditor rights against the association and  
10 voided their \$1.8 million judgment. But if that's  
11 what you did, please clarify.

12 That's all, Your Honor, unless you have  
13 other questions.

14 THE COURT: well, here's my question, and I  
15 keep coming back to page 10 of my order. And, to  
16 me, it appears to be fairly clear as to specifically  
17 what I ordered, adjudged, and decreed. And the  
18 reason why I think that's important is on two  
19 levels. No. 1, I'm going to read to you the plain  
20 language of my order. And just as important too, we  
21 have to remember the context of this order because  
22 this order was appealed to the Nevada Supreme Court  
23 and affirmed.

24 And so this is the very plain language, and  
25 this is what I said. It starts at line 10, quote:

1 "It is hereby further ordered, adjudged, and decreed  
2 that the Lytle Trust is permanently enjoined from  
3 recording and enforcing the judgments obtained from  
4 the Rosemere litigation I, Rosemere litigation II,  
5 and Rosemere litigation III, or any other judgments  
6 obtained against the association, against the  
7 September property, Zobrist property, Sandoval  
8 property, or Gegen property," period, end of quote.

9 The reason why I think it's important to  
10 point out, specifically, if you read the order, I  
11 addressed any other judgments obtained against the  
12 association in my order. Seems to me to be pretty  
13 clear that it was contemplated the way I read that  
14 and the way I signed off on it. Do I even need to  
15 interpret that specific paragraph because it says  
16 "the association"; right?

17 MR. WAITE: Would you like me to respond,  
18 Your Honor?

19 THE COURT: Yes.

20 MR. WAITE: Yes. Sorry. You know, I  
21 apologize. Since we're not in court, I can't see  
22 visual cues, and it's hard to tell when someone is  
23 asking a rhetorical question and actually wanting a  
24 response.

25 THE COURT: Yes.

1 MR. WAITE: Your Honor, there's only three  
2 judgments against the Lytle -- excuse me -- that the  
3 Lytle Trust has. This or any other judgments  
4 against the association, they're all against the  
5 association. All of them are against the  
6 association.

7 And, again, if that paragraph, if that  
8 first paragraph that the Permanent Injunction that  
9 you just read is all-encompassing, there would be no  
10 purpose for the second paragraph. I really believe  
11 Your Honor -- and this is not just being an oral  
12 advocate for my client -- I believe that looking at  
13 the way that this paragraph is structured, it has to  
14 be interpreted as that you have to look at it in  
15 terms of the last place against the September  
16 property, it that can't record or enforce the  
17 judgments obtained in any of these three litigations  
18 or any other judgments obtained against the  
19 association.

20 what can't they do with those judgments  
21 that they obtained in these three litigations or any  
22 other that they might possibly get against the  
23 association? They can't record or enforce those  
24 judgments, any of them, against the September  
25 property, Zobrist property, Sandoval property, or

1     Gegen property. And that, Your Honor, of course  
2     they go to court to seek the appointment of a  
3     receiver over the association wasn't action against  
4     their property. They haven't even argued that,  
5     Your Honor. They haven't argued that going to court  
6     and asking for an appointment of a receiver was  
7     somehow action against their property.

8             And, really, where I think that the real  
9     find is, Your Honor, is in the second paragraph.  
10    That is a more -- is a broader, all-encompassing  
11    that the Lytle Trust essentially can't do anything.  
12    Again, this is an action -- this is an action that  
13    only addresses the relationship between the Lytle  
14    Trust and the receivers, not the Lytle Trust and the  
15    association, and so you can't do anything.

16            You leapfrogged over the association in  
17    your judgment debtor before. You can't do that  
18    anymore. Don't do that again. You are permanently  
19    enjoined from bypassing the association and going  
20    directly against these homeowners. Well, Your Honor,  
21    that's exactly -- we took our cue, if you will. We  
22    didn't bypass the association. We went to the  
23    Court, and we asked the Court to appoint a receiver  
24    over the association. We didn't even involve the  
25    homeowners. They weren't even a party.

1                   And so, anyway, that's my response,  
2                   Your Honor, to those comments.

3                   THE COURT:   Okay.  What we're going to do,  
4                   just real quick, we're going to take a quick five  
5                   minute recess, and we'll come right back.  I'm going  
6                   to give the moving party an opportunity to respond.  
7                   It shouldn't take very long.

8                   (Pause in the proceedings.)

9                   THE COURT:   Okay.  We're back live, and  
10                  we'll go back to the moving party.

11                  You can sum it up.

12                  MR. SMITH:   Yes, Your Honor.  This is  
13                  Wesley Smith, counsel for the plaintiff.  I just  
14                  wanted to address a couple of points.  I don't want  
15                  to take too much of your time.

16                  Counsel for the Lytle Trust said that this  
17                  is not -- or the appointment of the receiver is not  
18                  an action against the property of the homeowners.  
19                  That is entirely not correct because, by the very  
20                  nature saying that you are appointing a receiver to  
21                  take over the association, that affects the property  
22                  rights of the homeowners.  Their properties lie  
23                  within where this association governs within this  
24                  community.

25                  And, further, to what they're advocating

1 that the receiver do to make special assessments,  
2 that would be affecting the property rights of these  
3 homeowners. If they did not own property within the  
4 Rosemere Estates community, there would be no effect  
5 on them by an assessment. So by the very nature of  
6 what they're trying to do, it does affect their  
7 property rights. And they admitted to you that they  
8 filed that receivership case without giving any  
9 notice to the property owners. They didn't have an  
10 opportunity to speak up about those property rights.

11 So, Your Honor, it's the same thing. They  
12 also mentioned that the receiver doesn't have to  
13 make special assessments in order to review its  
14 duties, that it could also go and take out financing  
15 to pay these judgments. Well, Your Honor, that's  
16 just a roundabout way of making special assessments  
17 because how would the association pay back a loan to  
18 pay these judgments without making special  
19 assessments on these property owners? It just can't  
20 be done.

21 They also said that NRS 82, which is the  
22 charitable corporations provision in the NRS, that  
23 that allows them to record or to take action against  
24 the property owners to make special assessments.  
25 But NRS 82, Section 121, states that a corporation

1 that is organized under that chapter can only  
2 exercise the powers under that chapter when not  
3 inconsistent with the purposes and objects for which  
4 the corporation is organized.

5 Further, in their opposition, the Lytle  
6 Trust works extensively from the Restatement of  
7 Servitudes. And when you look at that, it says that  
8 associations that are incorporated are entitled to  
9 exercise powers granted under the applicable  
10 corporation statutes -- in this case, that would be  
11 NRS 82 -- quote, "unless they conflict with the law  
12 of common interest communities."

13 Regarding we've already said multiple times  
14 that NRS 116.1201 governs this association. That is  
15 the law of common interest communities which is at  
16 play here, and it does not give this association the  
17 powers that they are trying to have this receiver do.

18 Your Honor, as a final thing, they talk  
19 about how -- they've asked the question if your  
20 order takes away all creditor rights for the Lytle  
21 Trust --

22 (The record was read.)

23 MR. SMITH: Yes. "Creditor rights." So  
24 the Lytle Trust asked the Court whether or not its  
25 orders took away all of the Lytle Trust creditor

1 rights as it relates to the Rosemere judgments. I  
2 don't believe that it went that far, Your Honor. It  
3 did not take away all creditor rights. They still  
4 have the option to go and use garnishment,  
5 encashment, all of the -- and execution, all of the  
6 rights that are given to them under NRS to be able  
7 to collect on the judgment. In fact, I believe they  
8 have already made garnishment on the bank account of  
9 the association.

10 what they are upset about is that the  
11 association did not have enough money to pay their  
12 entire judgment. Your Honor, that's a problem that  
13 we always run into when we get judgments against  
14 corporations that simply don't have enough funds to  
15 satisfy the judgments that are against them. It  
16 does not mean that you took away their creditor  
17 rights and certainly does not mean that they don't  
18 have a remedy at law.

19 Your Honor, we respectfully ask that you  
20 grant the motion, that you assess sanctions against  
21 them, that you award our attorneys fees and costs  
22 for having to come here and argue about this,  
23 something that we already argued about before.

24 Thank you, Your Honor.

25 THE COURT: Thank you, sir.

1 Mr. Wang or Mr. Foley.

2 MR. FOLEY: Dan Foley, Your Honor. Nothing  
3 further.

4 MS. WANG: Your Honor, this is Christina  
5 wang. I just want to close by saying that they  
6 didn't answer your question which Your Honor posed  
7 at the beginning of this hearing, which is how can  
8 they seek to do indirectly what the Court said they  
9 couldn't do directly? And that is exactly the route  
10 that they are trying to employ by doing what they're  
11 doing right now with respect to the receiver action.

12 Mr. Waite has spent a great deal of time  
13 trying to create separation between the receiver and  
14 the Lytle Trust. But I hope Your Honor recognizes  
15 that it was the Lytle Trust that filed the receiver  
16 action. It is the Lytle Trust that's bringing the  
17 receiver's responsibility, one of which is to go and  
18 collect on these judgments against the HOA from the  
19 individual property owners. It is the Lytle Trust  
20 judgment that the receiver is attempting to collect  
21 by sending out letters to all of the homeowners  
22 saying, "Let's meet so we can discuss how we are  
23 going to repay these judgments."

24 At the end of the day, again, they cannot  
25 seek to do indirectly what the Court said that they

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1 could not do directly. They are in violation of  
2 this Court's orders, which the Court has spent years  
3 reviewing and developing the record, and the record  
4 is clear.

5 And we submit, Your Honor, they are in  
6 violation of the court order that they have shown a  
7 history of violating the Court's orders and that it  
8 is incumbent upon this Court to shut them down at  
9 this point and say "no more" and that counsel on the  
10 plaintiff's side, my client's side, are entitled to  
11 recovery of their attorneys' fees and costs in  
12 dealing with this issue.

13 In addition, we request that the Court make  
14 a specific ruling that the receiver action that the  
15 Lytles filed is in direct conflict with the  
16 judgments and the orders of this Court.

17 Thank you so much.

18 THE COURT: All right. This is what I'm  
19 going to do, and we've had a rigorous discussion.  
20 we have a pretty clear record. I understand the  
21 history of this case and grappled with it for quite  
22 awhile. There is an appellate history to this case,  
23 and so when it comes to Plaintiff's Motion for an  
24 Order to Show Cause why the Lytle Trust Should Not  
25 Be Held in Civil Contempt Or Violation of this

1 Court's order, I'm going to grant the motion.

2 And there's a reason for it because this  
3 case has a history, and Mr. Foley pointed out to me  
4 one issue that I thought was fairly significant at  
5 the time, and that's when the abstracts judgment  
6 were expunged, the Lytle Trust went out and recorded  
7 lis pendens. It was obvious to me that, based upon  
8 the history of this case, that that wasn't the  
9 appropriate thing to do. And it's my recollection I  
10 expunged the lis pendens also.

11 I think it's important to point out too  
12 that when you read an order, it's not really a  
13 question of statutory interpretation. Each  
14 paragraph of the order has and should be given its  
15 plain meaning. And it's important to point out too  
16 that this Court made specific factual determinations  
17 in its May 24th, 2018, order.

18 And just as important too, I made  
19 Conclusions of Law. They start out on page 7 of the  
20 order and continue to page 8. And more specifically,  
21 as a result of the Findings of Fact and Conclusions  
22 of Law, there were specific orders which aren't  
23 mutually exclusive. Each issue I ordered should be  
24 given its meaning, and they're not in conflict.  
25 Certain paragraphs are expansive. Some are

1 narrower. But, ultimately, if you look at page 10,  
2 line 10, and this order was appealed, it provides,  
3 quote:

4 "It is hereby further ordered, adjudged,  
5 and decreed that the Lytle Trust is permanently  
6 enjoined from recording and enforcing the judgments  
7 obtained from the Rosemere litigation I, Rosemere  
8 litigation II, and Rosemere litigation III, or any  
9 other judgments obtained against the association,  
10 against the September property, Zobrist property,  
11 Sandoval property, or Gegen property."

12 Just as important, it appears to me that  
13 there's not just direct, but there's also indirect  
14 violation of this Court's order. There will be  
15 assessment of \$500 per plaintiff. And just as  
16 important too, file your application for fees and  
17 costs. I'll consider that and hear that on the  
18 merits, and that will be my decision.

19 Mr. Smith, I want you to prepare Findings  
20 of Facts, Conclusions of Law, and then once that's  
21 prepared, before you submit it, makes sure Mr. Waite  
22 gets a copy; and if you can't agree on the contents,  
23 you can submit competing orders.

24 Everyone, enjoy your day.

25 MR. WAITE: Thank you, Your Honor.

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1 THE COURT: Stay safe out there.

2 MS. WANG: Thank you, Your Honor.

3 Mr. WAITE: Thank you, Your Honor.

4

5 (The proceedings concluded at 1:00 p.m.)

6 -ooo-

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CERTIFICATE OF REPORTER

STATE OF NEVADA     )  
                              )SS:  
COUNTY OF CLARK    )

I, Dana J. Tavaglione, a duly commissioned and licensed Court Reporter, Clark County, State of Nevada, do hereby certify: That I reported the proceedings had in the above-entitled matter at the place and date indicated.

That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript of said proceedings is a complete, true and accurate transcription of said shorthand notes.

IN WITNESS HEREOF, I have hereunto set my hand, in my office, in the County of Clark, State of Nevada, this 28th day of April 2020.

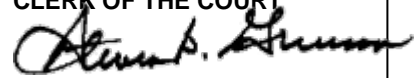
/s/Dana J. Tavaglione

\_\_\_\_\_  
DANA J. TAVAGLIONE, RPR, CCR NO. 841

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**DISTRICT COURT**  
\*\*\*  
**CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST,  
LINDA LAMOTHE AND JACQUES  
LAMOTHE, TRUSTEES OF THE JACQUES  
& LINDA LAMOTHE LIVING TRUST,

Plaintiffs,

vs.

TRUDI LEE LYTLE AND JOHN ALLEN  
LYTLE, AS TRUSTEES OF THE LYTLE  
TRUST, DOES I through X; and ROE  
CORPORATIONS I through X

*Defendants.*

SEPTEMBER TRUST, DATED MARCH 23,  
1972; et al,

Plaintiffs

v.

TRUDI LEE LYTLE AND JOHN LYTLE, AS  
TRUSTEES OF THE LYTLE TRUST; JOHN  
DOES I through V; and ROW ENTITIES I  
through I inclusive.

Defendants.

Case No. A-16-747800-C  
Dept. No. XVI

**WITHDRAWAL OF JOINDER  
ON PLAINTIFFS SEPTEMBER  
TRUST ET. AL.'S MOTION FOR  
AN ORDER TO SHOW CAUSE  
WHY THE LYTLE TRUST  
SHOULD NOT BE HELD IN  
CONTEMPT FOR VIOLATION  
OF COURT ORDERS**

Case No.: A-17-765372-C  
Dept. No.: XVI

1 Plaintiffs Marjorie B. Boulden, Trustee Of The Marjorie B. Boulden Trust (the “Boulden  
2 Trust”), Linda Lamothe And Jacques Lamothe, Trustees Of The Jacques & Linda Lamothe  
3 Living Trust (“Lamothe Trust”) by and through their attorneys Foley & Oakes, PC, having  
4 entered into a settlement agreement with the Lytle Trust with respect to, among other things,  
5 resolving the Lytle Trust’s Appeal of this Court’s Order granting the Boulden Trust’s and  
6 Lamothe Trust’s Attorneys’ Fees and Costs, hereby provide Notice to the Court and all interested  
7 parties that they hereby withdraw their Joinder filed in this case on March 5, 2020, and  
8 accordingly waive all relief orally awarded by the Court associated with their Joinder.  
9

10 Dated this 14<sup>th</sup> day of May 2020.

11  
12 FOLEY & OAKES, PC

13 **By: /s/ Daniel T. Foley**

14 Daniel T. Foley, Esq.  
15 1210 So. Valley View Blvd., Suite # 208  
16 Las Vegas, NV 89102  
17 (702) 384-2070  
18 *Attorneys for the Boulden and*  
19 *Lamothe Plaintiffs.*  
20  
21  
22  
23  
24  
25  
26  
27

**CERTIFICATE OF SERVICE**

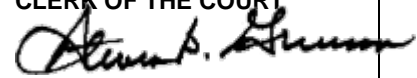
Pursuant to N.R.C.P. Rule 5(b), I certify that I am an employee of Foley & Oakes, PC and that on this 14<sup>th</sup> day of May 2020, I caused this document to be served pursuant to NEFCR 9, upon all registered parties via the Court's electronic filing system.

I declare that under penalty of perjury under the laws of the State of Nevada that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction this service was made.

/s/ Liz Gould  
An employee of Foley & Oakes PC

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33



**OBJ**  
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**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST,  
LINDA LAMOTHE AND JACQUES  
LAMOTHE, TRUSTEES OF THE  
JACQUES & LINDA LAMOTHE LIVING  
TRUST,

Plaintiffs,

vs.

TRUDI LEE LYTLE, JOHN ALLEN  
LYTLE, THE LYTLE TRUST, DOES I  
through X, and ROE CORPORATIONS I  
through X,

Defendants.

Case No.: A-16-747800-C  
Dept. No.: XVI

**DEFENDANT'S (1) OBJECTION TO  
PLAINTIFFS' PROPOSED ORDER,  
AND (2) COMPETING ORDER**

Date: April 22, 2020  
Time: 9:00 a.m.

SEPTEMBER TRUST, DATED MARCH 23,  
1972; GERRY R. ZOBRIST AND JOLIN G.  
ZOBRIST, AS TRUSTEES OF THE GERRY  
R. ZOBRIST AND JOLIN G. ZOBRIST  
FAMILY TRUST; RAYNALDO G.  
SANDOVAL AND JULIE MARIE  
SANDOVAL GEGEN, AS TRUSTEES OF  
THE RAYNALDO G. AND EVELYN A.  
SANDOVAL JOINT LIVING AND

Case No.: A-17-765372-C  
Dept. No.: XVI

CONSOLIDATED

DEVOLUTION TRUST DATED MAY 27,  
1992; and DENNIS A. GEGEN AND JULIE  
S. GEGEN, HUSBAND AND WIFE, AS  
JOINT TENANTS,

Plaintiffs,

vs.

TRUDI LEE LYTLE AND JOHN ALLEN  
LYTLE, AS TRUSTEES OF THE LYTLE  
TRUST; JOHN DOES I through V; and ROE  
ENTITIES I through V, inclusive,

Defendants.

Defendant Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust ("Lytle Trust"), hereby file its objection to Plaintiffs' proposed Order Granting Plaintiffs' Motion for Order to Show Cause Why the Lyle Trust Should Not be Held in Contempt for Violation of Court Orders, and the Lytle Trust hereby also submits its proposed competing order.

# I.

## OBJECTIONS TO PLAINTIFFS' PROPOSED FINDINGS OF FACT

### Objection to Plaintiffs' Proposed Finding No. 4

**A. Proposed by Plaintiffs:** "The Court ordered the Lytle Trust to expunge the Abstracts of Judgment that it had recorded against properties owned by the Boulden Trust and Lamothe Trust. The Lytle Trust released the Abstracts of Judgment, but immediately recorded two *lis pendens* against the Boulden Trust and Lamothe Trust properties. Thereafter, the Lytle Trust refused to voluntarily expunge the *lis pendens* and the Boulden Trust and Lamothe Trust were forced to file a Motion to Expunge *Lis Pendens*. This Court summarily granted the Motion on June 23, 2017 and the *lis pendens* were ordered stricken, but the Lytle Trust was not held in contempt."

**B. Proposed by Lytle Trust (redlined against Proposed by Plaintiffs):** "~~The Court ordered the Lytle Trust to expunge the Abstracts of Judgment that it had recorded against properties owned by the Boulden Trust and Lamothe Trust. The Lytle Trust released the Abstracts of Judgment, but immediately recorded two *lis pendens* against the Boulden~~

1 ~~Trust and Lamothe Trust properties. Thereafter, the Lytle Trust refused to voluntarily~~  
 2 ~~expunge the *lis pendens* and the Boulden Trust and Lamothe Trust were forced to file a~~  
 3 ~~Motion to Expunge *Lis Pendens*. This Court summarily granted the Motion on June 23,~~  
 4 ~~2017 and the *lis pendens* were ordered stricken, but the Lytle Trust was not held in~~  
 5 ~~contempt.”~~

6 **C. Basis of Lytle Trust’s Objection:** The Lytle Trust proposes this Finding be  
 7 eliminated in its entirety. The notices of *lis pendens* recorded in May 2017 against the  
 8 properties previously owned by the Lamothe Trust and Boulden Trust were not mentioned  
 9 in Plaintiffs’ Motion, the Opposition, the Reply, or either of the Joinders. This issue was  
 10 improperly raised for the first time at the hearing where the undersigned counsel for the  
 11 Lytle Trust, who was not counsel for the Lytle Trust until recently, did not have an  
 12 opportunity to adequately respond. *See e.g., Maronyan v. Mercedes Benz Financial*  
 13 *Services USA, LLC*, 2018 WL 1737621, at \*4 (C.D. Cal. 2018) (“...Caley presented this  
 14 argument in one [of] its briefing and only for the first time at oral argument, giving  
 15 Plaintiffs no meaningful opportunity to consider and respond to it. Courts ordinarily  
 16 disregard arguments so untimely and unfairly raised.”). The prior recordation of the  
 17 notices of *lis pendens* should play no role here because (1) as mentioned above, such was  
 18 raised for the first time at the hearing, and (2) such was already the subject of a Motion to  
 19 Hold Defendants and/or Their Counsel in Contempt of Court and this Court expressly  
 20 found, as Finding of Fact No. 16 in its June 23, 2017 Order regarding that prior contempt  
 21 motion, that “[t]he Lytles and their counsel by recording the Lamothe *Lis Pendens* and the  
 22 Boulden *Lis Pendens* were not in contempt of Court.” (Emphases added). Indeed, the  
 23 previous contempt motion regarding the recordation of the notices of *lis pendens* was  
 24 apparently not even a close call. More specifically, during the June 1, 2017 hearing on the  
 25 prior contempt motion, “Mr. Haskin [counsel for the Lytle Trust] began to argue the  
 26 contempt issue; however, the Court stated it would not hold Defts in contempt . . . .”  
 27 (Minute Order 6/1/17). It is neither proper nor rational to support a finding of contempt on  
 28 an old finding of no-contempt. Furthermore, conduct that occurred more than a year

*before* this Court entered its May 2018 permanent injunction order is not relevant to whether the Lytle Trust violated the May 2018 permanent injunction, which is the only order this Court found the Lytle Trust violated. Finally, although Plaintiffs' proposed Finding No. 4 includes a reference at the end that "the Lytle Trust was not held in contempt," such is an after-thought—i.e., during the hearing, the Court was reminded about the prior *lis pendens* matter but was not reminded that such was the subject of a prior contempt motion and that the Court denied that motion. Again, the undersigned, being new to this case, was not in a position to remind the Court of this mitigating history (and, given the requirement of telephonic hearings, it was not technologically possible for Mr. Haskin to privately consult with me during the hearing). Clearly, the Court was swayed by the *lis pendens* matter. An after-the-fact recitation here in Finding 4 that a prior contempt motion was filed and denied does not remedy the harm done by Plaintiffs—they raised the matter for the first time, not in a reply brief, which is patently improper, but worse during oral argument and did so without reminding the Court that Plaintiffs alleged such was a contempt but the Court found otherwise. This Finding should be eliminated.

**Objection to Plaintiffs' Proposed Finding No. 16:**

**A. Proposed by Plaintiffs:** "The Lytle Trust did not inform the Receivership Court about this Case, the July 2017 Order, May 2018 Order, or the Orders of Affirmance. The Lytle Trust did not inform the Receivership Court that this Court had issued permanent injunctions against the Lytle Trust regarding enforcement of the Rosemere Judgments against the Plaintiffs, the Boulden Trust, the Lamothe Trust, the Dismans, or their properties."

**B. Proposed by the Lytle Trust (redlined against Proposed by Plaintiffs):** The Lytle Trust did not inform the Receivership Court about this Case, the July 2017 Order, May 2018 Order, or the Orders of Affirmance. The Lytle Trust did not inform the Receivership Court that this Court had issued permanent injunctions against the Lytle Trust ~~prohibiting enforcement of the Rosemere Judgments against the Plaintiffs, the Boulden Trust, the Lamothe Trust, the Dismans, or their properties.~~

C. **Basis of Lytle Trust's Objection:** The language that the Lytle Trust suggests should be deleted from Finding No. 16 is not a finding, it is a conclusion or characterization regarding the permanent injunction that is better suited for the Conclusion of Law section. Further, this Finding references the "permanent injunctions" (plural) and yet attempts to characterize both of them, which are not identical, with a single phrase. Additionally, the Conclusion of Law section separately provides an interpretation of the permanent injunction language found in the May 2018 Order, the only permanent injunction which was the subject of the Contempt Motion and the only one this Court found had been violated by the Lytle Trust, as demonstrated by the parties' alignment on these points in the two competing orders. Thus, including the characterization here proposed by the Plaintiffs creates, at best, duplication and, at worst, ambiguity and potential conflict. The Court's Conclusions of Law should stand regarding the meaning of the permanent injunction language. Finally, it is axiomatic that the permanent injunction prohibits what it prohibits—there is no need to re-characterize it here.

## II.

### OBJECTIONS TO PLAINTIFFS PROPOSED CONCLUSIONS OF LAW

#### Objection to Plaintiffs' Proposed Conclusion of Law No. 1:

A. **Proposed by Plaintiffs:** "This case has a history, such as the filing of the *lis pendens* against the Boulden Trust and Lamothe Trust properties after the Court had ordered the expungement of the Abstracts of Judgment and continued enforcement of the Abstracts of Judgment against the September Trust, Zobrist Trust, Sandoval Trust, and Gegens' properties after entry of the July 2017 Order, that demonstrates that the Lytle Trust does not respect this Court's Orders."

B. **Proposed by the Lytle Trust (redlined against Proposed by Plaintiffs):** ~~"This case has a history, such as the filing of the *lis pendens* against the Boulden Trust and Lamothe Trust properties after the Court had ordered the expungement of the Abstracts of Judgment and continued enforcement of the Abstracts of Judgment against the September~~

1 ~~Trust, Zobrist Trust, Sandoval Trust, and Gegens' properties after entry of the July 2017~~  
 2 ~~Order, that demonstrates that the Lytle Trust does not respect this Court's Orders."~~

3 **C. Basis of Lytle Trust's Objection:** The Lytle Trust proposes this Conclusion be  
 4 eliminated. *See* Basis of Lytle Trust's Objection to Finding No. 4, *supra*, incorporated  
 5 herein by this reference. More particularly, the Boulden Trust and Lamothe Trust, who are  
 6 not movants here, previously filed a motion to hold the Lytle Trust in contempt for  
 7 recording notices of *lis pendens* against their properties. However, this Court denied that  
 8 motion and expressly found the Lytle Trust did not act in contempt of any court order.  
 9 (*See* Order (filed 6/23/17) at Conclusion No. 16: "The Lytles and their counsel by  
 10 recording the Lamothe *Lis Pendens* and the Boulden *Lis Pendens* were not in contempt of  
 11 Court."). Yet, recording those *lis pendens* is the only thing Plaintiffs identify to support  
 12 their proposed Conclusion No. 1 that the "Lytle Trust does not respect this Court's  
 13 Orders." A prior finding of no-contempt does not and cannot support a Conclusion that that  
 14 same party does not respect court orders. Finally, a review of the transcript reveals (at  
 15 page 65) that Judge Williams stated that "this case has a history" and immediately  
 16 thereafter referenced the *lis pendens* matter. (Transcript at 65:2-8). However, the Court  
 17 did not conclude (as the proposed Conclusion No. 1 states) that such demonstrates the  
 18 Lytle Trust does not respect this Court's Orders. What the Court said was: "It was obvious  
 19 to me that, based upon the history of this case, that that [i.e., recording the *lis pendens*]  
 20 wasn't the appropriate thing to do." (*Id.* at 65:7-10). However, concluding that a party's  
 21 actions were not appropriate is vastly different from and is not tantamount to a conclusion  
 22 that that party has a history of disrespecting this Court's Order. Plaintiffs' proposed  
 23 Conclusion No. 1 should be eliminated.

24 ////

25 ////

26 ////

27 ////

28 ////

**Objection to Plaintiffs' Proposed Conclusion of Law No. 10:**

**A. Proposed by Plaintiffs:** "The May 2018 Order's permanent injunction clearly precluded the Lytle Trust from doing anything as it relates to enforcing and recording the Rosemere Judgments against the Plaintiffs and Dismans or their properties."

**B. Proposed by the Lytle Trust (redlined against Proposed by Plaintiffs):** "The May 2018 Order's permanent injunction clearly precluded the Lytle Trust from doing anything as it relates to enforcing and recording the Rosemere Judgments ~~against the Plaintiffs and Dismans or their properties.~~"

**C. Basis of Lytle Trust's Objection:** The disagreement regarding this Conclusion (and the next Conclusion No. 11) centers on the difference between what the Court repeatedly and expressly stated during the contempt hearing and, with one exception, what Plaintiffs believe the Court meant to say. Candidly, the Lytle Trust only wants (1) the record to be clear in case it decides to appeal the pending contempt Order, and (2) to know how this Court interprets the permanent injunction so it can be guided in the future to avoid additional contempt rulings. To that end, the Lytle Trust is contemporaneously filing herewith its Motion For Clarification ("Motion"). The Lytle Trust requests the Court resolve the present disagreement regarding this Order and that Motion at the same time. The arguments and authorities raised in the Motion are incorporated by this reference as if fully set forth herein. Finally, any reference here to the Dismans is incorrect and must be eliminated because the May 2018 Order had nothing to do with the Dismans or their property—i.e., the May 2018 permanent injunction expressly applied in favor of only "the September Property, Zobrist Property, Sandoval Property or Gegen Property" and, more generally, the "Plaintiffs," which was defined in the May 2018 Order to be only the "September Trust," "Zobrist Trust," "Sandoval Trust," and "Dennis & Julie Gegen." The Dismans are not included within the scope of the May 2018 Order. Therefore, at a minimum, any reference to the Dismans in this Conclusion must be removed.

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**Objection to Plaintiffs' Proposed Conclusion of Law No. 11:**

**A. Proposed by Plaintiffs:** “Indeed, the Lytle Trust has no judgment creditor rights to try to collect the Rosemere Judgments from the Plaintiffs or Dismans in any way, shape, or form.”

**B. Proposed by the Lytle Trust (redlined against Proposed by Plaintiffs):** “Indeed, the Lytle Trust has no judgment creditor rights to try to collect the Rosemere Judgments ~~from the Plaintiffs or Dismans~~ in any way, shape, or form.”

**C. Basis of Lytle Trust's Objection:** This Conclusion as proposed by the Lytle Trust (i.e., without “from the Plaintiffs or Dismans”) comes directly from the transcript of the hearing. More specifically, the undersigned stated “if Your Honor is saying that the Lytle Trust have absolutely no judgment creditor rights to try to collect that, those judgments in any way, shape, or form, then perhaps we violated Your Honor's order. But I would—,” at that point the Court interrupted and said “But isn't that what my order says as it relates to . . . [w]hen it says ‘is permanently enjoined from recording and enforcing judgments.’” (Transcript at 34:13-35:1). Again, as with Conclusion No. 10, the disagreement regarding this Conclusion No. 11 centers on the difference between what the Court repeatedly and expressly stated during the contempt hearing and, with one exception, what Plaintiffs believe the Court meant to say. By virtue of this Objection and the contemporaneously filed Motion, the Court can certainly clarify whether it meant what it repeatedly said or whether it meant to include a limitation that was mentioned once during the hearing. Again, the Lytle Trust only wants (1) the record to be clear in case it decides to appeal the pending contempt Order, and (2) to know how this Court interprets the permanent injunction so it can be guided in the future to avoid additional contempt rulings. Accordingly, the Lytle Trust requests the Court resolve the present disagreement regarding this Order and that Motion at the same time. The arguments and authorities raised in the Motion are incorporated by this reference as if fully set forth herein.

////

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## III.

**PROPOSED COMPETING ORDER**

Based on the foregoing, the Lytle Trust submits its competing Order attached hereto as Exhibit "A," which is identical to Plaintiffs' proposed Order except to the extent set forth above.

DATED this 19<sup>th</sup> day of May, 2020.

**LEWIS ROCA ROTHGERBER CHRISTIE LLP**

By: /s/ Dan R. Waite

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**Lewis Roca**  
ROTHGERBER CHRISTIE

001410

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that on this day, I caused a true and correct copy of the following ***“DEFENDANT’S (1) OBJECTION TO PLAINTIFFS’ PROPOSED ORDER, AND (2) COMPETING ORDER”*** to be e-filed and served via the Court’s E-Filing System.

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Dated this 19<sup>th</sup> day of May, 2020

/s/ Luz Horvath

An Employee of Lewis Roca Rothgerber Christie LLP

**Exhibit A**

**Exhibit A**

**ORDR**  
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**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST,  
LINDA LAMOTHE AND JACQUES  
LAMOTHE, TRUSTEES OF THE  
JACQUES & LINDA LAMOTHE LIVING  
TRUST,

Plaintiffs,

vs.

TRUDI LEE LYTLE, JOHN ALLEN  
LYTLE, THE LYTLE TRUST, DOES I  
through X, and ROE CORPORATIONS I  
through X,

Defendants.

Case No.: A-16-747800-C  
Dept. No.: XVI

**ORDER GRANTING PLAINTIFFS'**  
**MOTION FOR ORDER TO SHOW**  
**CAUSE WHY THE LYTLE TRUST**  
**SHOULD NOT BE HELD IN**  
**CONTEMPT FOR VIOLATION OF**  
**COURT ORDERS**

Date: April 22, 2020  
Time: 9:00 a.m.

SEPTEMBER TRUST, DATED MARCH 23,  
1972; GERRY R. ZOBRIST AND JOLIN G.  
ZOBRIST, AS TRUSTEES OF THE GERRY  
R. ZOBRIST AND JOLIN G. ZOBRIST  
FAMILY TRUST; RAYNALDO G.  
SANDOVAL AND JULIE MARIE  
SANDOVAL GEGEN, AS TRUSTEES OF  
THE RAYNALDO G. AND EVELYN A.  
SANDOVAL JOINT LIVING AND

Case No.: A-17-765372-C  
Dept. No.: XVI

CONSOLIDATED

1 DEVOLUTION TRUST DATED MAY 27,  
2 1992; and DENNIS A. GEGEN AND JULIE  
3 S. GEGEN, HUSBAND AND WIFE, AS  
4 JOINT TENANTS,

5 Plaintiffs,

6 vs.

7 TRUDI LEE LYTLE AND JOHN ALLEN  
8 LYTLE, AS TRUSTEES OF THE LYTLE  
9 TRUST; JOHN DOES I through V; and ROE  
10 ENTITIES I through V, inclusive,

11 Defendants.

12 Presently before the Court is Plaintiffs' Motion for Order to Show Cause Why the Lytle  
13 Trust Should Not Be Held in Contempt for Violation of Court Orders ("Motion") filed by the  
14 September Trust, dated March 23, 1972 ("September Trust"), Gerry R. Zobrist and Jolin G.  
15 Zobrist, as Trustees of the Gerry R. Zobrist and Jolin G. Zobrist Family Trust ("Zobrist Trust"),  
16 Raynaldo G. Sandoval and Julie Marie Sandoval Gegen, as Trustees of the Raynaldo G. and  
17 Evelyn A. Sandoval Joint Living and Devolution Trust dated May 27, 1992 ("Sandoval Trust"),  
18 and Dennis A. Gegen and Julie S. Gegen, Husband and Wife, as Joint Tenants ("Dennis & Julie  
19 Gegen") (collectively the "Plaintiffs"), the Joinders filed by Marjorie B. Boulden, Trustee of the  
20 Marjorie B. Boulden Trust, amended and restated dated July 17, 1996 ("Boulden Trust") and  
21 Linda Lamothe and Jacques Lamothe, Trustees of the Jacques and Linda Lamothe Living Trust  
22 ("Lamothe Trust") and Robert Z. Disman and Yvonne A. Disman (the "Dismans"), and the  
23 Opposition and Reply thereto, which came on for hearing on April 22, 2020 at 9:00 a.m. in  
24 Department XVI of the Eighth Judicial District Court, Clark County, Nevada.

25 Wesley J. Smith, Esq. of Christensen James & Martin, Chtd. appeared on behalf of the  
26 Plaintiffs. Daniel T. Foley, Esq. of Foley & Oakes, PC appeared on behalf of the Boulden Trust  
27 and Lamothe Trust. Christina H. Wang, Esq. of Fidelity National Law Group appeared on behalf  
28 of the Dismans. Dan R. Waite, Esq. of Lewis Roca Rothgerber Christie LLP and Richard Haskin,  
Esq. of Gibbs Giden Locher Turner Senet & Wittbrodt LLP appeared on behalf of Trudi Lee Lytle  
and John Allen Lytle, as Trustees of the Lytle Trust ("Lytle Trust"). Patricia Lee, Esq. of

Hutchison & Steffen was present on behalf of Kevin Singer, court appointed Receiver over the Rosemere Estates Property Owners Association (“Association”), in Case No. A-18-775843-C, *Trudi Lee Lytle et al. v. Rosemere Estates Property Owners’ Association* (“Receivership Action”).

The Court having considered the Motion, Joinders, Opposition, and Reply, together with the Exhibits thereto, having heard the arguments of counsel, and with good cause appearing therefore, the Court hereby grants the Motion and Joinders and enters the following Findings of Fact, Conclusions of Law, and Order:

### **FINDINGS OF FACT**

1. On April 26, 2017, this Court entered its Findings of Fact, Conclusions of Law, and Order Granting the Boulden Trust and Lamothe Trust’s Motion for Partial Summary Judgment (“April 2017 Order”) against the Lytle Trust. On the Lytle Trust’s Motion for Reconsideration or, in the alternative, Motion to Alter or Amend Judgment, on July 27, 2017, this Court entered its Order Granting Motion to Alter or Amend Findings of Fact and Conclusions of Law (“July 2017 Order”) in favor of the Boulden Trust and the Lamothe Trust on their Motion for Partial Summary Judgment.<sup>1</sup> The July 2017 Order is hereby incorporated by reference.

2. In the July 2017 Order, the Court concluded, in part, that: the Association is a “limited purpose association” as referenced in NRS 116.1201(2); as a limited purpose association, NRS 116.3117 is not applicable to the Association; as a result of the Rosemere Litigation I (referred to in the July 2017 Order as the Rosemere LPA Litigation) between the Lytle Trust and the Association, the Amended CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were invalid, have no force and effect, and were declared *void ab initio*; the Boulden Trust and Lamothe Trust were not parties to the Rosemere Litigation I; the Boulden Trust and Lamothe Trust were not “losing parties” in the Rosemere Litigation I per Section 25 of the Original CC&Rs; the Final Judgment in the Rosemere Litigation I against the Association in favor of the Lytle Trust is not against, and is not an obligation of, the Boulden Trust and Lamothe Trust;

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<sup>1</sup> The April 2017 Order included an order that the Lytle Trust had slandered title. The Court subsequently determined that it had not made findings of fact or conclusions of law on this issue and amended accordingly by entering the July 2017 Order without any order on the slander of title claim. The slander of title claim was later dismissed by stipulation between the parties. *See* Notice of Entry of Stipulation and Order to Dismiss All Remaining Claims Without Prejudice filed on January 14, 2019.

1 and the Final Judgment against the Association in the Rosemere Litigation I is not an obligation or  
2 debt owed by the Boulden Trust and Lamothe Trust.

3 3. The July 2017 Order also included the following permanent injunction at page 7:

4 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the  
5 Defendants are permanently enjoined from recording and enforcing the Final Judgment  
6 from the Rosemere LPA Litigation or any abstracts related thereto against the Boulden  
7 Property or the Lamothe Property.

8 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the  
9 Defendants are permanently enjoined from taking any action in the future against the  
10 Plaintiffs or their properties based upon the Rosemere LPA Litigation.

11 4. The Lytle Trust appealed the July 2017 Order and the Nevada Supreme Court  
12 issued an Order of Affirmance on December 4, 2018 in Case No. 73039, *Trudi Lee Lytle v.*  
13 *Marjorie B. Boulden* (“First Order of Affirmance”).<sup>2</sup>

14 5. After entry of the July 2017 Order, the September Trust, Zobrist Trust, Sandoval  
15 Trust, and Gegens, which also own property within the Rosemere Subdivision, approached the  
16 Lytle Trust and requested that it release the Abstracts of Judgment recorded against their  
17 properties as well. After the Lytle Trust refused to release the Abstracts of Judgment as to their  
18 properties, the September Trust, Zobrist Trust, Sandoval Trust, and Gegens filed a Complaint  
19 against the Lytle Trust in Case No. A-17-765372-C, which was consolidated with this Case (Case  
20 No. A-16-747900-C) on February 21, 2018.

21 6. On May 24, 2018, this Court entered its Order Granting Motion for Summary  
22 Judgment or, in the Alternative, Motion for Judgment on the Pleadings and Denying  
23 Countermotion for Summary Judgment (“May 2018 Order”) in favor of the September Trust,  
24 Zobrist Trust, Sandoval Trust, and Gegens and against the Lytle Trust. The May 2018 Order is  
25 hereby incorporated by reference.

26 7. In the May 2018 Order, the Court concluded, in part, that: the Association is a  
27 “limited purpose association” as referenced in NRS 116.1201(2); as a limited purpose association,  
28 NRS 116.3117, the statute upon which the Lytle Trust relied to record the Abstracts of Judgment,

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<sup>2</sup> The Boulden Trust sold its property to the Dismans on August 4, 2017. This Court subsequently held, in an Order entered on or about December 26, 2018, that the July 2017 Order likewise applied to the Rosemere Litigation II Judgment, which the Lytle Trust sought to enforce against the Lamothe Trust and the Dismans’ and their properties after entry of the July 2017 Order.

is not applicable to the Association; as a result of the Rosemere Litigation I between the Lytle Trust and the Association, the Amended CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were invalid, have no force and effect, and were declared *void ab initio*; the September Trust, Zobrist Trust, Sandoval Trust, and Gegens were not parties to the Rosemere Litigation I, Rosemere Litigation II, or Rosemere Litigation III; the September Trust, Zobrist Trust, Sandoval Trust, and Gegens were not “losing parties” in the Rosemere Litigation I, Rosemere Litigation II, or Rosemere Litigation III per Section 25 of the Original CC&Rs; the Judgments issued in the Rosemere Litigation I, Rosemere Litigation II, or Rosemere Litigation III (collectively the “Rosemere Judgments”) against the Association in favor of the Lytle Trust are not against, and are not an obligation of, the September Trust, Zobrist Trust, Sandoval Trust, or Gegens to the Lytle Trust; and the Rosemere Judgments against the Association are not an obligation or debt owed by the September Trust, Zobrist Trust, Sandoval Trust, or Gegens to the Lytle Trust.

8. The May 2018 Order, at page 10, lines 10-19, contained the following permanent injunction:

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from recording and enforcing the Judgments obtained from the Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other judgments obtained against the Association, against the September Property, Zobrist Property, Sandoval Property or Gegen Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from taking any action in the future directly against the Plaintiffs or their properties based upon the Rosemere Litigation I, Rosemere Litigation II or Rosemere Litigation III.

9. On June 19, 2018, the Lytle Trust appealed the May 2018 Order to the Nevada Supreme Court, Case No. 76198, *Trudi Lee Lytle v. September Trust, Dated March 23, 1972*. This appeal was consolidated with the Lytle Trust’s subsequent appeal of an award of attorney’s fees and costs in favor of the September Trust, Zobrist Trust, Sandoval Trust, and Gegens under NRS 18.010(2)(b), Case No. 77007. The Supreme Court entered its Order of Affirmance affirming the May 2018 Order and subsequent fees order on March 2, 2020 (“Second Order of Affirmance”).

10. On June 8, 2018, the Lytle Trust filed a new action, Case No. A-18-775843-C, *Trudi Lee Lytle et al. v. Rosemere Estates Property Owners’ Association* (“Receivership Action”),

1 asserting claims against the Association for (a) Declaratory Judgment, and (b) Breach of  
2 Contract/Easement Agreement. The prayer for relief in the Receivership Action sought:

3 a. an Order declaring that the Association must continue to operate as required  
4 by the CC&Rs and Chapters 82 and 116 of the Nevada Revised Statutes, which includes,  
5 but is not limited to: 1) maintaining the landscaping in the exterior wall planters; 2)  
6 maintaining the exterior perimeter and frontage; 3) maintaining the entrance gate; 4)  
7 maintaining the private drive and sewer system; 5) ensuring that homeowners are paying  
8 their assessments; 6) seeking collection activity against any homeowners that have failed  
9 to pay their assessments; 7) paying known creditors of the Association; 8) specially  
10 assessing the homeowners to ensure that enough proceeds exist within the HOA funds to  
11 pay all known creditors assessing; and 9) any other activity required under Nevada law.

12 b. specific performance requiring the Association to comply with the CC&Rs,  
13 as well as other Nevada law, with respect to the Association's maintenance and day-to-day  
14 activities;

15 c. injunctive relief preventing the Association from violating the terms of the  
16 CC&RS, as well as other Nevada law, moving forward;

17 d. appointment of a receiver to handle the maintenance obligations and day-to-  
18 day activities, including the financial activities regarding assessments and creditors, until a  
19 duly constituted board may be instituted and power transitioned thereto; and

20 e. reasonable attorneys' fees, costs of suit and litigation, and such other and  
21 further relief as the Court deems just and proper

22 11. The Complaint in the Receivership Action alleges that the Association is not  
23 functioning, that the common elements of the community are not being maintained, and that “the  
24 Association has not paid known creditors of the Association, which includes, but is not limited to,  
25 the annual dues to the Nevada Secretary of State or the Nevada Department of Real Estate or the  
26 Lytles, which hold multiple judgments against the Association.” Complaint at ¶ 21.

27 12. In a Renewed Application for Appointment of Receiver filed by the Lytle Trust on  
28 October 24, 2019 (“Application”) in the Receivership Action, the Lytle Trust asserts that one

reason for a Receiver over the Association was due to the Association's refusal to pay the Rosemere Judgments, including its refusal to assess Association members, including the Plaintiffs, so the Association could pay the Rosemere Judgments. Application at 3:2-4, 5:17-18 ("Additional grounds exist because the Association is refusing to pay and refusing to assess Association members related to various monetary judgments awarded to the Lytles against the Association"), 13:19-28 ("A receiver may be appointed...[a]fter judgment, to carry the judgment into effect" (quoting NRS 32.010(3))), 14:1-2, 16-28 ("the Lytle Trust obtained judgments against the Association and a Receiver is needed to carry those judgments into effect"), 15:20-25 ("the Association has a duty...to pay its debts, including the Judgments obtained by the Lytle Trust"), 16:17-22 ("the Association is without any governing body to assess the homeowners and pay the judgments").

13. The Lytle Trust disclosed to the judge in the Receivership Action (the "Receivership Court") that the Amended CC&Rs had been judicially declared *void ab initio* and of no force or effect. *Id.* at 8:11-12 (the District "Court determined that the Amended CC&Rs were not properly adopted or recorded, that the Amended CC&Rs are invalid, and that the Amended CC&Rs have no force or effect"); 8 at n.3 ("Note, Rosemere 2 Litigation commenced more than six years *before* the Court in Rosemere 1 Litigation ruled that the Amended CC&Rs were invalid.") (emphasis in original); 9:13-17 ("In granting the Lytle Trust's Motion for Attorneys' Fees, the district court in the Rosemere 1 and Rosemere 2 Litigations . . . held that the Lytle Trust could recover attorneys' fees under the Amended CC&Rs because that document, while declared *void ab initio* by the district court, was in effect and enforced by the Association against the Lytle Trust at all times during the underlying litigation.").

14. However, The Lytle Trust further argued in the Application that the Amended CC&Rs provide authority for a receiver to make special assessments on the Plaintiffs' and other owners' properties to collect funds to pay the Rosemere Judgments. *Id.* at 11:4-28, 13:1-17, 17:1-9. The Lytle Trust's Application included a section heading in its Statement of Fact section titled "The Amended CC&Rs Grant the Association Authority to Assess Each Unit for Payment of Judgments Against the Association." *Id.* at 11:4-5. The Lytle Trust also represented that "the

District Court already ruled that the Association is liable for attorneys' fees, costs and damages pursuant to the Amended CC&Rs, which provide the Association with the ability to specially assess each property (unit) for the costs of the judgments. Amended CC&Rs ¶ 10.11, Exhibit 16." *Id.* at 17:6-9.

15. The Lytle Trust did not inform the Receivership Court about this Case, the July 2017 Order, May 2018 Order, or the Orders of Affirmance.<sup>3</sup> The Lytle Trust did not inform the Receivership Court that this Court had issued permanent injunctions against the Lytle Trust.

16. On December 18, 2019, based on the Lytle Trust's Application, the Receivership Court entered an Order Appointing a Receiver of Defendant Rosemere Property Owners Association ("Order Appointing Receiver"). The Order Appointing Receiver, drafted by the Lytle Trust, directs the Receiver to "[i]ssue and collect a special assessment upon all owners within the Association to satisfy the Lytle Trust's judgments against the Association." Order Appointing Receiver at 2:19-20. It further empowers the Receiver with "the authority to assess all Association unit owners to pay for any operation costs or to pay for judgments against the Association. If an Association member does not pay an assessment then the Receiver may proceed to foreclose on said member's ownership interest in the property." *Id.* at 6:4-7.

17. On or around January 22, 2020, the Plaintiffs and the Dismans<sup>4</sup> each received a letter from Kevin Singer of Receivership Specialists regarding the appointment of Mr. Singer as the Receiver in the Receivership Action ("Receiver Letter"). In the Receiver Letter, Mr. Singer states that "[t]he appointment of the receivership is predicated on judgments against the HOA in the approximate amount of \$1,481,822 by the Lytle family ("the Plaintiff").... These judgments need to be paid and the Court agreed with the Plaintiff by appointing a Receiver to facilitate the satisfying of the judgments.... We would like to meet with title holding members of the HOA...[to] share three ideas we have to pay these judgments."

<sup>3</sup> The Court notes that the Second Order of Affirmance was issued after entry of the Order Appointing Receiver and the Lytle Trust could not have informed the Receivership Court of it prior to entry of the Order Appointing Receiver.

<sup>4</sup> At the time, the Boulden Trust and Lamothe Trust no longer held title to any property within the Rosemere Subdivision, having sold their properties on August 4, 2017, and May 1, 2019, respectively.

18. On January 29, 2020, counsel for Plaintiffs sent a letter to the Receiver, with a copy to counsel for the Lytle Trust, notifying the Receiver that the Orders and Permanent Injunctions issued in this Case prevent further effort to collect the Rosemere Judgments from the Plaintiffs or other property owners. The Plaintiffs expressed their belief this effort to assess the property owners to pay the Rosemere Judgments violated this Court's Orders and demanded that the Receiver cease and desist.

19. On March 4, 2020, the Plaintiffs filed the instant Motion informing the Court about the Lytle Trust's actions and seeking sanctions for violation of this Court's May 2018 Order. The Boulden Trust and Lamothe Trust filed a Joinder to the Motion on March 5, 2020.<sup>5</sup> The Dismans filed a Joinder to the Motion on March 6, 2020.

20. The Association has never been a party to this Case.

### CONCLUSIONS OF LAW

1. This Court has inherent power to enforce its decrees, orders and judgments. A party is required to adhere to court orders, even disagreeable or erroneous orders, until terminated or overturned.

2. The proper course of action if a party disagrees with a Court order is to appeal.

3. The May 2018 Order must be obeyed by the Lytle Trust.

4. Each paragraph, each finding of fact, and each conclusion of law in the May 2018 Order must be given its plain meaning, and each paragraph of that Order's permanent injunction must be obeyed by the Lytle Trust.

5. As a result of the Findings of Fact and Conclusions of Law in the May 2018 Order, there were specific orders which are not mutually exclusive. Each issue ordered by the Court should be given its meaning, and they are not in conflict.

6. The Court's factual determinations and conclusions of law culminated with the permanent injunction language starting at Page 10, Line 10 of the May 2018 Order, which stated:

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from recording and enforcing the Judgments obtained

<sup>5</sup> After the hearing on the Motion but prior to entry of this Order, the Boulden Trust and the Lamothe Trust withdrew their Joinders pursuant to a settlement with the Lytle Trust. Therefore, the Boulden Trust and Lamothe Trust are no longer considered movants for purposes of the relief granted herein.

1 from the Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or  
2 any other judgments obtained against the Association, against the September Property,  
3 Zobrist Property, Sandoval Property or Gegen Property.

4 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle  
5 Trust is permanently enjoined from taking any action in the future directly against the  
6 Plaintiffs or their properties based upon the Rosemere Litigation I, Rosemere Litigation  
7 II or Rosemere Litigation III.

8 7. These paragraphs are not mutually exclusive and each must be obeyed by the Lytle  
9 Trust.

10 8. The Findings of Fact, Conclusions of Law, and Orders contained in the May 2018  
11 Order, including the permanent injunctions, are clear, specific and unambiguous as to what the  
12 parties could and could not do in this case. Further, the terms of the permanent injunction are  
13 specific and definite so that the Lytle Trust could readily know exactly what duties or obligations  
14 were imposed on it.

15 9. The May 2018 Order's permanent injunction clearly precluded the Lytle Trust from  
16 doing anything as it relates to enforcing and recording the Rosemere Judgments.

17 10. Indeed, the Lytle Trust has no judgment creditor rights to try to collect the  
18 Rosemere Judgments in any way, shape, or form.

19 11. The Plaintiffs have demonstrated by clear and convincing evidence that the Lytle  
20 Trust violated the clear and specific terms of the permanent injunction found in the May 2018  
21 Order when it initiated an action against the Association that included a prayer for appointment of  
22 a receiver, applied for appointment of a receiver, and argued that the Association, through the  
23 Receiver, could make special assessments on the Plaintiffs' and other property owners for the  
24 purpose of paying the Rosemere Judgments, all while failing to inform the Receivership Court of  
25 this Case, this Court's Orders, or that the Lytle Trust had been enjoined from enforcing the  
26 Rosemere Judgments against the Plaintiffs, the Boulden Trust, the Lamothe Trust, and the  
27 Dismans, or their properties.

28 12. The Lytle Trust's actions, as stated in the Findings of Fact and set forth herein,  
directly and indirectly violated the May 2018 Order.

13. Any references to the power of assessment exercised by the Association, or the  
Receiver on behalf of the Association, against the individual homeowners for payment of the

1 Rosemere Judgments in the Order Appointing Receiver, as advocated for and drafted by the Lytle  
2 Trust, directly and indirectly violates the May 2018 Order.

3 14. The Lytle Trust has failed to show why it was unable to comply with the May 2018  
4 Order.

5 15. The Lytle Trust has failed to demonstrate how its actions did not violate the clear  
6 and specific terms of the May 2018 Order.

7 16. A party may be held in contempt of court for disobedience or resistance to any  
8 lawful order issued by the court. NRS 22.010(3)

9 17. “[I]f a person is found guilty of contempt, a fine may be imposed on the person not  
10 exceeding \$500 or the person may be imprisoned not exceeding 25 days, or both.” NRS 22.100(2).

11 18. In addition, the court may award “reasonable expenses, including, without  
12 limitation, attorney’s fees, incurred by the party as a result of the contempt.” NRS 22.100(3).

13 **ORDER**

14 Based upon the Findings of Fact and Conclusions of Law above, and good cause appearing  
15 therefore,

16 **IT IS HEREBY ORDERED ADJUDGED AND DECREED** that Plaintiffs’ Motion for  
17 Order to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of  
18 Court Orders, as well as the Joinders thereto filed by the Boulden Trust, the Lamothe Trust, and  
19 the Dismans, are GRANTED.

20 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle  
21 Trust violated the May 2018 Order.

22 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle  
23 Trust is in contempt of the May 2018 Order.

24 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle  
25 Trust shall pay a \$500 penalty to each movant for violation of the May 2018 Order; specifically,  
26 \$500 payable to the September Trust, \$500 payable to the Zobrist Trust, \$500 payable to the  
27 Sandoval Trust, \$500 payable to the Gegens, and \$500 payable to the Dismans.

28 ///

1           **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the  
2 September Trust, Zobrist Trust, Sandoval Trust, Gegens, and Dismans, may file applications for  
3 their reasonable expenses, including, without limitation, attorney's fees, incurred by the party as a  
4 result of the contempt. The Court will consider such applications on the merits.

5           **IT IS SO ORDERED.**

6           Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

7  
8           \_\_\_\_\_  
9           DISTRICT COURT JUDGE

10  
11          Respectfully submitted by:

12          **LEWIS ROCA ROTHGERBER CHRISTIE LLP**

13  
14          By: /s/ Dan R. Waite

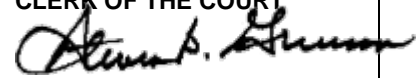
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34

34



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*Attorneys for Defendants*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST,  
LINDA LAMOTHE AND JACQUES  
LAMOTHE, TRUSTEES OF THE  
JACQUES & LINDA LAMOTHE LIVING  
TRUST,

Plaintiffs,

vs.

TRUDI LEE LYTLE, JOHN ALLEN  
LYTLE, THE LYTLE TRUST, DOES I  
through X, and ROE CORPORATIONS I  
through X,

Defendants.

Case No.: A-16-747800-C  
Dept. No.: XVI

**DEFENDANT LYTLE TRUST'S  
MOTION FOR CLARIFICATION  
AND *EX PARTE* REQUEST FOR  
ORDER SHORTENING TIME**

**HEARING REQUESTED**

**DATE OF HEARING:**

**TIME OF HEARING:**

SEPTEMBER TRUST, DATED MARCH 23,  
1972; GERRY R. ZOBRIST AND JOLIN G.  
ZOBRIST, AS TRUSTEES OF THE GERRY  
R. ZOBRIST AND JOLIN G. ZOBRIST  
FAMILY TRUST; RAYNALDO G.  
SANDOVAL AND JULIE MARIE  
SANDOVAL GEGEN, AS TRUSTEES OF  
THE RAYNALDO G. AND EVELYN A.  
SANDOVAL JOINT LIVING AND

Case No.: A-17-765372-C  
Dept. No.: XVI

CONSOLIDATED

1 DEVOLUTION TRUST DATED MAY 27,  
2 1992; and DENNIS A. GEGEN AND JULIE  
3 S. GEGEN, HUSBAND AND WIFE, AS  
4 JOINT TENANTS,

5 Plaintiffs,

6 vs.

7 TRUDI LEE LYTLE AND JOHN ALLEN  
8 LYTLE, AS TRUSTEES OF THE LYTLE  
9 TRUST; JOHN DOES I through V; and ROE  
10 ENTITIES I through V, inclusive,

11 Defendants.

12 Defendants Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust, hereby  
13 file their Motion for Clarification and Request for Order Shortening Time ("Motion"). This  
14 Motion is filed contemporaneously with the Lytle Trust's Objection and Competing Order in  
15 response to the proposed order submitted by Plaintiffs granting their motion to hold the Lytle  
16 Trust in contempt for violating this Court's May 2018 permanent injunction. The Lytle Trust  
17 requests the Court to consider this Motion and its Objection and Competing Order at the same  
18 time.

19 This Motion is based on the following Memorandum of Points and Authorities, the papers,  
20 pleadings and records contained within this Court's file, and any argument that may be allowed at  
21 the time of the hearing.

22 Dated this 19<sup>th</sup> day of May, 2020.

23 **LEWIS ROCA ROTHGERBER CHRISTIE LLP**

24 By: /s/ Dan R. Waite

25 DAN R. WAITE (SBN 4078)  
26 3993 Howard Hughes Parkway, Suite 600  
27 Las Vegas, Nevada 89169  
28 (702) 949-8200  
*Attorneys for Defendants*

**DECLARATION IN SUPPORT OF EX PARTE APPLICATION**  
**FOR ORDER SHORTENING TIME**

STATE OF NEVADA       )  
  ) ss:  
COUNTY OF CLARK       )

I, DAN R. WAITE, declare, under penalty of perjury and according to the laws of the State of Nevada, as follows:

1. I am over the age of 18 and am competent and willing to testify regarding the matters asserted herein, which are based on my own personal knowledge, unless stated upon information and belief, as to which statements I am informed and believe to be true.

2. I am an attorney licensed to practice law in all courts within the State of Nevada, and I am a partner with Lewis Roca Rothgerber Christie LLP. I am counsel for Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust in the above-captioned action. I make this Declaration in support of the Lytle Trust's Motion for Clarification.

3. On April 22, 2020, this Court conducted a hearing and orally found the Lytle Trust in contempt of court for violating this Court's May 2018 permanent injunction. A formal order has not yet been entered but competing orders have been submitted for the Court's consideration. Indeed, the Lytle Trust filed its Objection and Competing Order to the order proposed by Plaintiffs. The undersigned believes that resolution of the competing orders will be facilitated by a contemporaneous consideration of this Motion for Clarification, which (a) asks the Court to clarify its interpretation of the permanent injunction (which will assist to resolve the pending disagreements identified in the competing orders), and (b) asks the Court for guidance so the Lytle Trust can avoid future contempt motions, rulings, and sanctions.

4. Accordingly, the Lytle Trust requests an order shortening time so that this matter can be resolved contemporaneous with the pending competing orders.

5. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct and do so this 19th day of May 2020.

/s/ Dan R. Waite  
DAN R. WAITE

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I.**

#### **INTRODUCTION**

On April 22, 2020, this Court found the Lytle Trust in contempt of its permanent injunction order because the Lytle Trust sought and obtained the appointment of a receiver over the Rosemere Estate Property Owners' Association ("Association") in Case No. A-18-775843-C, assigned to Judge J. Kishner. The Lytle Trust hereby affirms its respect for this Court's orders, acknowledges those orders must be obeyed, and seeks to avoid being held in contempt again. To that end, the Lytle Trust requests an instruction or declaration from this Court regarding the scope of its permanent injunction so that, in moving forward, the Lytle Trust can avoid another finding and sanction of contempt.

### **II.**

#### **PROCEDURAL BACKGROUND**

As this Court knows, the Lytle Trust obtained three judgments against the Association in three separate actions (none were awarded by this Court). The Lytle Trust would like to collect those judgments. However, in this case, the Court entered a permanent injunction against the Lytle Trust in May 2018 as follows:

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from recording an enforcing the [three judgments], or any other judgments obtained against the Association, against the September Property, Zobrist Property, Sandoval Property or Gegen Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from taking any action in the future directly against the Plaintiffs or their properties based upon the [three lawsuits giving rise to the three judgments].

Because the Association's officers resigned and allowed it to become defunct when the judgments rolled-in, the Lytle Trust sought a receiver over the Association to, *inter alia*, satisfy

the Lytle Trust's judgments. More particularly, the Lytle Trust commenced a new action against the Association that became Case No. A-18-775843-C and was assigned to Judge J. Kishner. On December 18, 2019, Judge Kishner issued her Order Appointing a Receiver of Defendant Rosemere Property Owners Association ("Order Appointing Receiver").

On March 4, 2020, the Plaintiffs here, believing the Lytle Trust violated this Court's permanent injunction in seeking the appointment of a receiver, filed their Motion for an Order to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders ("Contempt Motion"). On April 22, 2020, a hearing was held on the Contempt Motion. Although the Lytle Trust sincerely believed that seeking the appointment of a receiver over the Association was a valid exercise of its judgment creditor right against the Association, this Court disagreed and found the Lytle Trust in contempt of the permanent injunction.

Based on comments made by this Court during the April 22, 2020 hearing on the Contempt Motion, the Lytle Trust seeks an order declaring whether the exercise of other judgment creditor rights will also be deemed a violation of this Court's permanent injunction. Indeed, based on this Court's comments during the hearing on the Contempt Motion, the Lytle Trust seeks a declaration regarding whether it has any remaining judgment creditor rights against the Association and, if so, which ones. The Lytle Trust seeks these declarations as a precautionary measure so that it can successfully navigate collection of its judgments, if at all, without being held in contempt and sanctioned again.

### III.

#### ARGUMENT

##### **A. A Judgment Creditor Has Various Rights and Tools to Collect its Judgment**

A judgment creditor normally has numerous tools to aid in the collection of its judgment. Those tools include, but are not limited to, (1) recording the judgment against the judgment debtor's real property pursuant to NRS 17.150, (2) executing and garnishing the judgment debtor's income, bank accounts and other assets pursuant to NRS 21.005 et seq., (3) conducting a judgment debtor examination pursuant to NRS 21.270, (4) garnishing the judgment debtor's assets in the hands of third parties pursuant to NRS 31.240 et seq., (4) traversing a third party's garnishment interrogatory responses pursuant to NRS 31.330, (5) appointment of a receiver over the judgment

debtor pursuant to numerous statutes, including NRS 32.010, and (6) conducting regular discovery (e.g., document requests, interrogatories, depositions, etc.) from “any person—including [but not limited to] the judgment debtor” pursuant to NRCP 69(a)(2).

This Court ruled that the Lytle Trust does not have the right to seek the appointment of a receiver over the Association (and held the Lytle Trust in contempt for doing so). The Lytle Trust seeks guidance regarding whether it can exercise any of the other judgment creditor rights because it wants to avoid being held in contempt and sanctioned again.

**B. The Contempt Hearing Created Doubt Whether The Lytle Trust Has Any Remaining Judgment Creditor Rights**

During the April 22, 2020 hearing on the Contempt Motion, several comments by the Court caused the Lytle Trust to question whether it can exercise any rights as a judgment creditor without violating this Court’s permanent injunction. Those comments include the following:

1. Approximately 30 seconds into the undersigned’s oral argument in opposition to the Contempt Motion, the undersigned noted that this lawsuit regarded “what the Lytle Trust could or could not do, under NRS 116, to enforce its judgments directly against the homeowners . . . .” (Transcript at 32:20-22). The Court interrupted asking “where does it say in my order ‘directly’?” However, before being afforded an opportunity to respond, the Court recited the first paragraph of the two-paragraph permanent injunction and stated: “*I mean, to me, that appears to be fairly clear that they’re [i.e., the Lytle Trust is] precluded from doing anything as it relates to enforcing and recording those judgments.*” (*Id.* at 33:13-16, emphases added). Having been held in contempt once, the Lytle Trust must assume the Court meant what it said, which means the Lytle Trust cannot do “anything” to collect its judgments without violating this Court’s permanent injunction. Such seems very extreme, but there is no ambiguity in what the Court stated. Accordingly, the Lytle Trust seeks a declaration regarding whether the Court meant what it said—or, conversely, whether the Court meant something different than what it said.

2. Immediately following the above exchange, the undersigned pointed out that the “direct” limitation was found in the second paragraph of the two-paragraph permanent injunction. The Court interrupted and interjected that the two paragraphs of the permanent injunction were “not mutually inclusive” and that, because of the permanent injunction’s first paragraph, the Lytle

1 Trust was “permanently enjoined from recording or enforcing judgments obtained as a result of  
 2 the Rosemere litigation.” (*Id.* at 34:4-7, emphases added). This broad preclusion is consistent  
 3 with the prior statement, i.e., the Lytle Trust cannot do anything to enforce any of its three  
 4 judgments without violating the permanent injunction.

5 3. Immediately following the foregoing exchange, the undersigned, thinking the Court  
 6 could not have meant what it said, stated: “Well, if your Honor is saying—and I don’t believe so,  
 7 and I certainly hope not—but if your Honor is saying that the Lytle Trust received three  
 8 judgments, which are valid, are final, and today amount to about a million-eight, . . . if Your Honor  
 9 is saying that the Lytle Trust [has] absolutely no judgment creditor rights to try to collect . . .  
 10 those judgments in any way, shape, or form, then perhaps we violated Your Honor’s order. But I  
 11 would —” (*Id.* at 34:8-18). The Court interrupted again: “And, Mr. Waite, I don’t want to cut you  
 12 off . . . [b]ut isn’t that what my order says . . .” (*Id.* at 34:8-23, emphases added). This exchange  
 13 seems to confirm the Court interprets the permanent injunction in a manner that leaves the Lytle  
 14 Trust with no right to enforce its judgments.

15 4. Indeed, just a moment later in the hearing, the Court again noted the first paragraph  
 16 of the two-paragraph permanent injunction, indicating “the language was broad as it relates to  
 17 ‘permanently enjoined from recording and enforcing judgments,’ [and] that’s pretty clear to me  
 18 that that stands for the proposition no further action as it relates to judgments obtained in the  
 19 [three Association lawsuits] or any other judgments obtained against the [A]ssociation.” (*Id.* at  
 20 37:6-13, emphases added). The reference to “no further action” seems further evidence the Court  
 21 stripped the Lytle Trust of all judgment creditor rights.

22 5. The foregoing statements by the Court are very broad and all-encompassing.  
 23 Indeed, on their face, they clearly preclude the Lytle Trust from doing anything to collect its  
 24 judgments against the Association. However, just a moment after the last exchange, the Court  
 25 made another comment that lends some doubt to that all-encompassing conclusion. More  
 26 specifically, the undersigned, who candidly was baffled by the foregoing exchanges, asked the  
 27 Court for clarification: “[D]id you intend by your Permanent Injunction here to strip the Lytle  
 28 Trust of all of its judgment creditor rights against the judgment debtor [A]ssociation?” (*Id.* at

39:4-7). The Court responded: “Well, the [A]ssociation wasn’t a party, but the bottom line is this: I stripped the Lytle Trust of their ability and right to enforce those judgments vis-à-vis the homeowners in this case.” (*Id.* at 39:8-12, emphases added). It is unclear whether “vis-à-vis the homeowners” constitutes a limitation and narrowing of the Court’s prior rulings noted above or whether such constitutes reinforcement of those prior rulings. Although viewing such as a limitation/narrowing would be consistent with what the Lytle Trust had argued, the Court’s subsequent comments suggest it did not intend any limitation or narrowing.

6. The Court pondered over what a receiver should do “under the circumstances of this case when, if they’ve been given a copy of a court order that stands for the proposition that . . . the Court has ruled and been affirmed by the Nevada Supreme Court . . . specifically as it relates to one important section, quote: ‘That the Lytle Trust . . . is permanently enjoined from recording or enforcing judgments obtained as a result of these pieces of litigation.’” (*Id.* at 40:18-41:3, emphases added). This statement does not include the “vis-à-vis the homeowners” or any other limitation—it is, as with the statements noted above, broad and all-encompassing, i.e., the Lytle Trust is permanently enjoined from enforcing its three judgments.

7. Shortly thereafter, the undersigned used a hypothetical whereby the Lytle Trust’s judgments could be fully satisfied without any special assessment against the homeowners—i.e., if the receiver hypothetically located sufficient, forgotten assets to satisfy the judgments. The undersigned then suggested the hypothetical demonstrated that “simply getting . . . a receiver over the [A]ssociation isn’t action against the homeowners. It’s clearly not direct action against the homeowners. And, Your Honor, I would suggest it’s not even indirect action.” (*Id.* at 47:11-17). The Court responded: “Isn’t it a conduit to get to the homeowners in this case and in direct violation of my order? Because it’s really clear they should take **no action**.” (*Id.* at 47:18-21, emphases added). This “conduit” concept seems to confirm the Court interprets the permanent injunction expansively to preclude the Lytle Trust from doing anything to enforce its judgments because even direct action against the Association could have (and almost certainly would have) an indirect (or “conduit”) impact on the homeowners.

**C. A Declaration is Sought to Avoid Another Contempt Ruling**

Based on the foregoing, the Lytle Trust fears any further action to enforce its judgments will subject it to another contempt motion and another contempt finding with resulting sanctions. To be sure, the Lytle Trust sincerely believed that seeking a receiver over its judgment debtor—the Association—was a valid exercise of its judgment creditor right. The Lytle Trust did not intend to violate this Court’s permanent injunction (and there has been no direct evidence to the contrary). Nevertheless, the Court found that seeking the appointment of a receiver did violate the permanent injunction and accordingly found the Lytle Trust in contempt and sanctioned it \$500 for each Plaintiff and further invited the Plaintiffs to file applications for an award of their fees and costs. In total, the Lytle Trust’s sincere interpretation of the permanent injunction will cost it several thousands of dollars in sanctions; further, the Plaintiffs (and anyone else the Lytle Trust may have to litigate against) will forever use the contempt ruling as evidence that the Lytle Trust is an adjudicated contemnor who cannot be trusted to respect court orders.

The Lytle Trust needs to know whether it can exercise any of its judgment creditor rights without violating this Court’s permanent injunction and, if so, which ones? That is, while the Lytle Trust’s efforts to collect its judgments will occur in other departments (i.e., the departments that issued the judgments), any motion to hold the Lytle Trust in contempt for those collection efforts will occur here. Indeed, such is exactly what occurred when the Lytle Trust sought and obtained the appointment of a receiver in Judge Kishner’s department, which resulted in the Contempt Motion, the contempt ruling, and sanctions against the Lytle Trust here. The Lytle Trust desires to avoid a repeat.

So, for example, can the Lytle Trust seek a judgment debtor examination of the Association? The Association, being a corporate entity, can only be examined through its representative. Currently, the only officer of the Association is the Receiver, Kevin Singer. However, depending on what Judge Kishner does with the homeowners’ pending motion to set aside the Order Appointing Receiver, Mr. Singer may or may not continue serving as the Receiver. And, in any event, Mr. Singer might request one of the former officers of the Association (i.e., one of the current homeowners) to appear and be examined on behalf of the Association. Such would,

1 of course, impact the homeowners. Even if the Receiver appeared for the Association at the  
 2 judgment debtor examination, his fees (and those of his attorney) would be assessed against all the  
 3 homeowners, pursuant to the Order Appointing Receiver, and thus would impact the homeowners.

4 Also, is the Lytle Trust entitled to execute and garnish the Association's bank account?  
 5 Such may also indirectly affect the homeowners. That is, as mentioned several times in these  
 6 proceedings, the Association does not manufacture widgets or provide widget services to generate  
 7 revenues. Its only source of revenue is from the homeowners in the form of dues or assessments.  
 8 Even the Plaintiff homeowners seem to concede that this limited purpose association can assess  
 9 for general maintenance and repair items. Thus, if, for example, the homeowners pay an  
 10 assessment for a needed repair and the Lytle Trust garnishes the Association's account *after* the  
 11 homeowners pay their assessments but *before* the repair is paid, such would clearly affect the  
 12 homeowners because they would either need to forego the repair or pay another assessment, in  
 13 which case the Lytle Trust could garnish the account again, and the process repeat itself over and  
 14 over.

15 Further, since the Lytle Trust is also an owner of property in the Association, it will  
 16 presumably receive notice of any assessments for then-needed repairs, or for maintenance, or to  
 17 create a reserve fund for future repairs and maintenance. Such an assessment would create an  
 18 obligation in the homeowners to the Association, i.e., the assessment receivable would be an asset  
 19 of the Association. Accordingly, can the Lytle Trust send writs of garnishment to the homeowners  
 20 in that situation essentially saying "don't pay the Association, you must pay the Lytle Trust  
 21 instead since the Association is indebted to the Lytle Trust?"

22 In short, to avoid being held in contempt again, the Lytle Trust needs guidance in the form  
 23 of a declaration regarding whether any of its judgment creditor rights survive this Court's  
 24 permanent injunction and, if so, which ones can it exercise.

#### 25 IV.

#### 26 CONCLUSION

27 The Lytle Trust is candidly surprised and embarrassed that it was held in contempt for  
 28 violating this Court's permanent injunction. Despite this Court's contempt ruling, the Lytle Trust

1 does respect this Court's orders and wishes to govern itself in the future to avoid any additional  
 2 contempt rulings; however, the Lytle Trust needs assistance from this Court in the form of a  
 3 declaration regarding how, if at all, it can proceed. Accordingly, the Lytle Trust respectfully asks  
 4 this Court to declare:

5 1. Whether the Lytle Trust can exercise any judgment creditor rights against the  
 6 judgment debtor Association without violating this Court's permanent injunctions?

7 2. If so, which ones? For example, may the Lytle Trust exercise any or all of the  
 8 following judgment creditor rights:

9 a. Conduct a judgment creditor examination of the Association even if such  
 10 necessitates a homeowner appear on behalf of the Association or, in the event the Receiver is the  
 11 deponent, assessment of the Receiver's fees for such against all homeowners;

12 b. Execute and garnish the Association's bank account(s) and other assets  
 13 even if such deprives the homeowners of a needed repair or necessitates additional repair  
 14 assessments against the homeowners;

15 c. Garnish the Association's assets, including the right to collect dues and  
 16 other assessments in the hands of third parties, including the other Association members;

17 d. Traverse those third parties' garnishment interrogatory answers if the Lytle  
 18 Trust believes those answers are not correct as a matter of fact or law;

19 e. Conduct regular discovery (e.g., document requests, interrogatories,  
 20 depositions, etc.) from "any person" including, but not limited to, the Association.

21  
 22 Dated this 19<sup>th</sup> day of May, 2020.

23 **LEWIS ROCA ROTHGERBER CHRISTIE LLP**

24  
 25 By: /s/ Dan R. Waite

26 DAN R. WAITE (SBN 4078)  
 27 3993 Howard Hughes Parkway, Suite 600  
 28 Las Vegas, Nevada 89169  
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*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that on this day, I caused a true and correct copy of the following ***“DEFENDANT LYTLE TRUST’S MOTION FOR CLARIFICATION AND EX PARTE REQUEST FOR ORDER SHORTENING TIME”*** to be e-filed and served via the Court’s E-Filing System.

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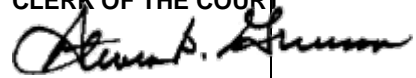
Dated this 19<sup>th</sup> day of May, 2020

/s/ Dan R. Waite

An Employee of Lewis Roca Rothgerber Christie LLP

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NEOJ  
CHRISTENSEN JAMES & MARTIN  
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*Attorneys for September Trust, Zobrist Trust, Sandoval Trust,  
and Dennis & Julie Gegen*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST, *et*  
*al.*,

Plaintiffs,

vs.

TRUDI LEE LYTLE, *et al.*,

Defendants.

Case No.: A-16-747800-C  
Dept. No.: XVI

**NOTICE OF ENTRY OF ORDER  
GRANTING PLAINTIFFS'  
MOTION FOR ORDER TO SHOW  
CAUSE WHY THE LYTLE TRUST  
SHOULD NOT BE HELD IN  
CONTEMPT FOR VIOLATION OF  
COURT ORDERS**

SEPTEMBER TRUST, DATED MARCH 23,  
1972, *et al.*,

Plaintiffs,

vs.

TRUDI LEE LYTLE AND JOHN ALLEN  
LYTLE, AS TRUSTEES OF THE LYTLE  
TRUST, *et al.*,

Defendants.

Case No.: A-17-765372-C  
Dept. No.: XVI

CONSOLIDATED

NOTICE IS HEREBY GIVEN, that an Order Granting Plaintiffs' Motion for Order to  
Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders

1 was entered in the above-captioned matter on May 22, 2020. A copy of the Order is attached  
2 hereto.

3 DATED this 22nd day of May 2020.

CHRISTENSEN JAMES & MARTIN

4  
5 By: /s/ Wesley J. Smith  
6 Wesley J. Smith, Esq.  
7 Nevada Bar No. 11871  
8 *Attorneys for September Trust, Zobrist*  
9 *Trust, Sandoval Trust and Gegen*  
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CHRISTENSEN JAMES & MARTIN  
7440 WEST SAHARA AVE., LAS VEGAS, NEVADA 89117  
PH: (702) 255-1718 & FAX: (702) 255-0871

001438

**CERTIFICATE OF SERVICE**

I am an employee of Christensen James & Martin. On May 22, 2020, I caused a true and correct copy of the foregoing Notice of Entry of Order Granting Plaintiffs' Motion for Order to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders, to be served in the following manner:

☒ **ELECTRONIC SERVICE**: electronic transmission (E-Service) through the Court's electronic filing system pursuant to Rule 8.05 of the Rules of Practice for the Eighth Judicial District Court of the State of Nevada.

Liz Gould (liz@foleyoakes.com)  
 Daniel Foley (Dan@foleyoakes.com)  
 Maren Foley (maren@foleyoakes.com)  
 Jennifer Martinez (jennifer.martinez@fnf.com)  
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 Daniel F. Polsenberg (DPolsenberg@LRRC.com)  
 Dan R. Waite (DWaite@LRRC.com)

☐ **UNITED STATES MAIL**: depositing a true and correct copy of the above-referenced document into the United States Mail with prepaid first-class postage, addressed to the parties at their last-known mailing address(es):

☐ **FACSIMILE**: By sending the above-referenced document via facsimile as follows:

☐ **E-MAIL**: electronic transmission by email to the following address(es):

/s/ Natalie Saville  
 Natalie Saville

**ORDR****CHRISTENSEN JAMES & MARTIN**

KEVIN B. CHRISTENSEN, ESQ.

Nevada Bar No. 175

WESLEY J. SMITH, ESQ.

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*Attorneys for September Trust, Zobrist Trust, Sandoval Trust**and Dennis & Julie Gegen***EIGHTH JUDICIAL DISTRICT COURT****CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST,  
LINDA LAMOTHE AND JACQUES  
LAMOTHE, TRUSTEES OF THE  
JACQUES & LINDA LAMOTHE LIVING  
TRUST,

Plaintiffs,

vs.

TRUDI LEE LYTLE, JOHN ALLEN  
LYTLE, THE LYTLE TRUST, DOES I  
through X, and ROE CORPORATIONS I  
through X,

Defendants.

Case No.: A-16-747800-C

Dept. No.: XVI

**ORDER GRANTING PLAINTIFFS'**  
**MOTION FOR ORDER TO SHOW**  
**CAUSE WHY THE LYTLE TRUST**  
**SHOULD NOT BE HELD IN**  
**CONTEMPT FOR VIOLATION OF**  
**COURT ORDERS**

Date: April 22, 2020

Time: 9:00 a.m.

SEPTEMBER TRUST, DATED MARCH 23,  
1972; GERRY R. ZOBRIST AND JOLIN G.  
ZOBRIST, AS TRUSTEES OF THE GERRY  
R. ZOBRIST AND JOLIN G. ZOBRIST  
FAMILY TRUST; RAYNALDO G.  
SANDOVAL AND JULIE MARIE  
SANDOVAL GEGEN, AS TRUSTEES OF  
THE RAYNALDO G. AND EVELYN A.  
SANDOVAL JOINT LIVING AND

Case No.: A-17-765372-C

Dept. No.: XVI

CONSOLIDATED

1 DEVOLUTION TRUST DATED MAY 27,  
2 1992; and DENNIS A. GEGEN AND JULIE  
3 S. GEGEN, HUSBAND AND WIFE, AS  
4 JOINT TENANTS,

5 Plaintiffs,

6 vs.

7 TRUDI LEE LYTLE AND JOHN ALLEN  
8 LYTLE, AS TRUSTEES OF THE LYTLE  
9 TRUST; JOHN DOES I through V; and ROE  
10 ENTITIES I through V, inclusive,

11 Defendants.

12 Presently before the Court is Plaintiffs' Motion for Order to Show Cause Why the Lytle Trust  
13 Should Not Be Held in Contempt for Violation of Court Orders ("Motion") filed by the September Trust,  
14 dated March 23, 1972 ("September Trust"), Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the  
15 Gerry R. Zobrist and Jolin G. Zobrist Family Trust ("Zobrist Trust"), Raynaldo G. Sandoval and Julie  
16 Marie Sandoval Gegen, as Trustees of the Raynaldo G. and Evelyn A. Sandoval Joint Living and  
17 Devolution Trust dated May 27, 1992 ("Sandoval Trust"), and Dennis A. Gegen and Julie S. Gegen,  
18 Husband and Wife, as Joint Tenants ("Dennis & Julie Gegen") (collectively the "Plaintiffs"), the Joinders  
19 filed by Marjorie B. Boulden, Trustee of the Marjorie B. Boulden Trust, amended and restated dated July  
20 17, 1996 ("Boulden Trust") and Linda Lamothe and Jacques Lamothe, Trustees of the Jacques and Linda  
21 Lamothe Living Trust ("Lamothe Trust") and Robert Z. Disman and Yvonne A. Disman (the "Dismans"),  
22 and the Opposition and Reply thereto, which came on for hearing on April 22, 2020 at 9:00 a.m. in  
23 Department XVI of the Eighth Judicial District Court, Clark County, Nevada.

24 Wesley J. Smith, Esq. of Christensen James & Martin, Chtd. appeared on behalf of the Plaintiffs.  
25 Daniel T. Foley, Esq. of Foley & Oakes, PC appeared on behalf of the Boulden Trust and Lamothe Trust.  
26 Christina H. Wang, Esq. of Fidelity National Law Group appeared on behalf of the Dismans. Dan R.  
27 Waite, Esq. of Lewis Roca Rothgerber Christie LLP and Richard Haskin, Esq. of Gibbs Giden Locher  
28 Turner Senet & Wittbrodt LLP appeared on behalf of Trudi Lee Lytle and John Allen Lytle, as Trustees  
of the Lytle Trust ("Lytle Trust"). Patricia Lee, Esq. of Hutchison & Steffen was present on behalf of  
Kevin Singer, court appointed Receiver over the Rosemere Estates Property Owners Association

1 (“Association”), in Case No. A-18-775843-C, *Trudi Lee Lytle et al. v. Rosemere Estates Property*  
 2 *Owners’ Association* (“Receivership Action”).

3 The Court having considered the Motion, Joinders, Opposition, and Reply, together with the  
 4 Exhibits thereto, having heard the arguments of counsel, and with good cause appearing therefore, the  
 5 Court hereby grants the Motion and Joinders and enters the following Findings of Fact, Conclusions of  
 6 Law, and Order:

### 7 **FINDINGS OF FACT**

8 1. On April 26, 2017, this Court entered its Findings of Fact, Conclusions of Law, and Order  
 9 Granting the Boulden Trust and Lamothe Trust’s Motion for Partial Summary Judgment (“April 2017  
 10 Order”) against the Lytle Trust. On the Lytle Trust’s Motion for Reconsideration or, in the alternative,  
 11 Motion to Alter or Amend Judgment, on July 27, 2017, this Court entered its Order Granting Motion to  
 12 Alter or Amend Findings of Fact and Conclusions of Law (“July 2017 Order”) in favor of the Boulden  
 13 Trust and the Lamothe Trust on their Motion for Partial Summary Judgment.<sup>1</sup> The July 2017 Order is  
 14 hereby incorporated by reference.

15 2. In the July 2017 Order, the Court concluded, in part, that: the Association is a “limited  
 16 purpose association” as referenced in NRS 116.1201(2); as a limited purpose association, NRS 116.3117  
 17 is not applicable to the Association; as a result of the Rosemere Litigation I (referred to in the July 2017  
 18 Order as the Rosemere LPA Litigation) between the Lytle Trust and the Association, the Amended  
 19 CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were invalid,  
 20 have no force and effect, and were declared *void ab initio*; the Boulden Trust and Lamothe Trust were  
 21 not parties to the Rosemere Litigation I; the Boulden Trust and Lamothe Trust were not “losing parties”  
 22 in the Rosemere Litigation I per Section 25 of the Original CC&Rs; the Final Judgment in the Rosemere  
 23 Litigation I against the Association in favor of the Lytle Trust is not against, and is not an obligation of,  
 24  
 25

---

26 <sup>1</sup> The April 2017 Order included an order that the Lytle Trust had slandered title. The Court  
 27 subsequently determined that it had not made findings of fact or conclusions of law on this issue and  
 28 amended accordingly by entering the July 2017 Order without any order on the slander of title claim.  
 The slander of title claim was later dismissed by stipulation between the parties. *See* Notice of Entry of  
 Stipulation and Order to Dismiss All Remaining Claims Without Prejudice filed on January 14, 2019.

1 the Boulden Trust and Lamothe Trust; and the Final Judgment against the Association in the Rosemere  
2 Litigation I is not an obligation or debt owed by the Boulden Trust and Lamothe Trust.

3 3. The July 2017 Order also included the following permanent injunction at page 7:

4 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Defendants  
5 are permanently enjoined from recording and enforcing the Final Judgment from the Rosemere  
6 LPA Litigation or any abstracts related thereto against the Boulden Property or the Lamothe  
7 Property.

8 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Defendants  
9 are permanently enjoined from taking any action in the future against the Plaintiffs or their  
10 properties based upon the Rosemere LPA Litigation.

11 4. The Court ordered the Lytle Trust to expunge the Abstracts of Judgment that it had  
12 recorded against properties owned by the Boulden Trust and Lamothe Trust. The Lytle Trust released  
13 the Abstracts of Judgment, but immediately recorded two *lis pendens* against the Boulden Trust and  
14 Lamothe Trust properties. Thereafter, the Lytle Trust refused to voluntarily expunge the *lis pendens* and  
15 the Boulden Trust and Lamothe Trust were forced to file a Motion to Expunge *Lis Pendens*. This Court  
16 summarily granted the Motion on June 23, 2017 and the *lis pendens* were ordered stricken, but the Lytle  
17 Trust was not held in contempt.

18 5. The Lytle Trust appealed the July 2017 Order and the Nevada Supreme Court issued an  
19 Order of Affirmance on December 4, 2018 in Case No. 73039, *Trudi Lee Lytle v. Marjorie B. Boulden*  
20 (“First Order of Affirmance”).<sup>2</sup>

21 6. After entry of the July 2017 Order, the September Trust, Zobrist Trust, Sandoval Trust,  
22 and Gegens, which also own property within the Rosemere Subdivision, approached the Lytle Trust and  
23 requested that it release the Abstracts of Judgment recorded against their properties as well. After the  
24 Lytle Trust refused to release the Abstracts of Judgment as to their properties, the September Trust,  
25 Zobrist Trust, Sandoval Trust, and Gegens filed a Complaint against the Lytle Trust in Case No. A-17-  
26 765372-C, which was consolidated with this Case (Case No. A-16-747900-C) on February 21, 2018.

27 <sup>2</sup> The Boulden Trust sold its property to the Dismans on August 4, 2017. This Court subsequently held,  
28 in an Order entered on or about December 26, 2018, that the July 2017 Order likewise applied to the  
Rosemere Litigation II Judgment, which the Lytle Trust sought to enforce against the Lamothe Trust  
and the Dismans’ and their properties after entry of the July 2017 Order.

1           7. On May 24, 2018, this Court entered its Order Granting Motion for Summary Judgment  
2 or, in the Alternative, Motion for Judgment on the Pleadings and Denying Countermotion for Summary  
3 Judgment (“May 2018 Order”) in favor of the September Trust, Zobrist Trust, Sandoval Trust, and  
4 Gegens and against the Lytle Trust. The May 2018 Order is hereby incorporated by reference.

5           8. In the May 2018 Order, the Court concluded, in part, that: the Association is a “limited  
6 purpose association” as referenced in NRS 116.1201(2); as a limited purpose association, NRS 116.3117,  
7 the statute upon which the Lytle Trust relied to record the Abstracts of Judgment, is not applicable to the  
8 Association; as a result of the Rosemere Litigation I between the Lytle Trust and the Association, the  
9 Amended CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were  
10 invalid, have no force and effect, and were declared *void ab initio*; the September Trust, Zobrist Trust,  
11 Sandoval Trust, and Gegens were not parties to the Rosemere Litigation I, Rosemere Litigation II, or  
12 Rosemere Litigation III; the September Trust, Zobrist Trust, Sandoval Trust, and Gegens were not  
13 “losing parties” in the Rosemere Litigation I, Rosemere Litigation II, or Rosemere Litigation III per  
14 Section 25 of the Original CC&Rs; the Judgments issued in the Rosemere Litigation I, Rosemere  
15 Litigation II, or Rosemere Litigation III (collectively the “Rosemere Judgments”) against the Association  
16 in favor of the Lytle Trust are not against, and are not an obligation of, the September Trust, Zobrist  
17 Trust, Sandoval Trust, or Gegens to the Lytle Trust; and the Rosemere Judgments against the Association  
18 are not an obligation or debt owed by the September Trust, Zobrist Trust, Sandoval Trust, or Gegens to  
19 the Lytle Trust.

20           9. The May 2018 Order, at page 10, lines 10-19, contained the following permanent  
21 injunction:

22           IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust  
23 is permanently enjoined from recording and enforcing the Judgments obtained from the  
24 Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other  
judgments obtained against the Association, against the September Property, Zobrist Property,  
Sandoval Property or Gegen Property.

25           IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust  
26 is permanently enjoined from taking any action in the future directly against the Plaintiffs or  
27 their properties based upon the Rosemere Litigation I, Rosemere Litigation II or Rosemere  
28 Litigation III.

10. On June 19, 2018, the Lytle Trust appealed the May 2018 Order to the Nevada Supreme Court, Case No. 76198, *Trudi Lee Lytle v. September Trust, Dated March 23, 1972*. This appeal was consolidated with the Lytle Trust's subsequent appeal of an award of attorney's fees and costs in favor of the September Trust, Zobrist Trust, Sandoval Trust, and Gegens under NRS 18.010(2)(b), Case No. 77007. The Supreme Court entered its Order of Affirmance affirming the May 2018 Order and subsequent fees order on March 2, 2020 ("Second Order of Affirmance").

11. On June 8, 2018, the Lytle Trust filed a new action, Case No. A-18-775843-C, *Trudi Lee Lytle et al. v. Rosemere Estates Property Owners' Association* ("Receivership Action"), asserting claims against the Association for (a) Declaratory Judgment, and (b) Breach of Contract/Easement Agreement. The prayer for relief in the Receivership Action sought:

a. an Order declaring that the Association must continue to operate as required by the CC&Rs and Chapters 82 and 116 of the Nevada Revised Statutes, which includes, but is not limited to: 1) maintaining the landscaping in the exterior wall planters; 2) maintaining the exterior perimeter and frontage; 3) maintaining the entrance gate; 4) maintaining the private drive and sewer system; 5) ensuring that homeowners are paying their assessments; 6) seeking collection activity against any homeowners that have failed to pay their assessments; 7) paying known creditors of the Association; 8) specially assessing the homeowners to ensure that enough proceeds exist within the HOA funds to pay all known creditors assessing; and 9) any other activity required under Nevada law.

b. specific performance requiring the Association to comply with the CC&Rs, as well as other Nevada law, with respect to the Association's maintenance and day-to-day activities;

c. injunctive relief preventing the Association from violating the terms of the CC&RS, as well as other Nevada law, moving forward;

d. appointment of a receiver to handle the maintenance obligations and day-to-day activities, including the financial activities regarding assessments and creditors, until a duly constituted board may be instituted and power transitioned thereto; and

1 e. reasonable attorneys' fees, costs of suit and litigation, and such other and further  
2 relief as the Court deems just and proper

3 12. The Complaint in the Receivership Action alleges that the Association is not functioning,  
4 that the common elements of the community are not being maintained, and that "the Association has not  
5 paid known creditors of the Association, which includes, but is not limited to, the annual dues to the  
6 Nevada Secretary of State or the Nevada Department of Real Estate or the Lytles, which hold multiple  
7 judgments against the Association." Complaint at ¶ 21.

8 13. In a Renewed Application for Appointment of Receiver filed by the Lytle Trust on October  
9 24, 2019 ("Application") in the Receivership Action, the Lytle Trust asserts that one reason for a Receiver  
10 over the Association was due to the Association's refusal to pay the Rosemere Judgments, including its  
11 refusal to assess Association members, including the Plaintiffs, so the Association could pay the  
12 Rosemere Judgments. Application at 3:2-4, 5:17-18 ("Additional grounds exist because the Association  
13 is refusing to pay and refusing to assess Association members related to various monetary judgments  
14 awarded to the Lytles against the Association"), 13:19-28 ("A receiver may be appointed...[a]fter  
15 judgment, to carry the judgment into effect" (quoting NRS 32.010(3))), 14:1-2, 16-28 ("the Lytle Trust  
16 obtained judgments against the Association and a Receiver is needed to carry those judgments into  
17 effect"), 15:20-25 ("the Association has a duty...to pay its debts, including the Judgments obtained by  
18 the Lytle Trust"), 16:17-22 ("the Association is without any governing body to assess the homeowners  
19 and pay the judgments").

20 14. The Lytle Trust disclosed to the judge in the Receivership Action (the "Receivership  
21 Court") that the Amended CC&Rs had been judicially declared *void ab initio* and of no force or effect.  
22 *Id.* at 8:11-12 (the District "Court determined that the Amended CC&Rs were not properly adopted or  
23 recorded, that the Amended CC&Rs are invalid, and that the Amended CC&Rs have no force or effect");  
24 8 at n.3 ("Note, Rosemere 2 Litigation commenced more than six years *before* the Court in Rosemere 1  
25 Litigation ruled that the Amended CC&Rs were invalid.") (emphasis in original); 9:13-17 ("In granting  
26 the Lytle Trust's Motion for Attorneys' Fees, the district court in the Rosemere 1 and Rosemere 2  
27 Litigations . . . held that the Lytle Trust could recover attorneys' fees under the Amended CC&Rs because  
28

1 that document, while declared *void ab initio* by the district court, was in effect and enforced by the  
2 Association against the Lytle Trust at all times during the underlying litigation.”).

3 15. However, The Lytle Trust further argued in the Application that the Amended CC&Rs  
4 provide authority for a receiver to make special assessments on the Plaintiffs’ and other owners’  
5 properties to collect funds to pay the Rosemere Judgments. *Id.* at 11:4-28, 13:1-17, 17:1-9. The Lytle  
6 Trust’s Application included a section heading in its Statement of Fact section titled “The Amended  
7 CC&Rs Grant the Association Authority to Assess Each Unit for Payment of Judgments Against the  
8 Association.” *Id.* at 11:4-5. The Lytle Trust also represented that “the District Court already ruled that  
9 the Association is liable for attorneys’ fees, costs and damages pursuant to the Amended CC&Rs, which  
10 provide the Association with the ability to specially assess each property (unit) for the costs of the  
11 judgments. Amended CC&Rs ¶ 10.11, Exhibit 16.” *Id.* at 17:6-9.

12 16. The Lytle Trust did not inform the Receivership Court about this Case, the July 2017 Order,  
13 May 2018 Order, or the Orders of Affirmance.<sup>3</sup> The Lytle Trust did not inform the Receivership Court  
14 that this Court had issued permanent injunctions against the Lytle Trust relating to enforcement of the  
15 Rosemere Judgments against the Plaintiffs, the Boulden Trust, the Lamothe Trust, the Dismans, or their  
16 properties.

17 17. On December 18, 2019, based on the Lytle Trust’s Application, the Receivership Court  
18 entered an Order Appointing a Receiver of Defendant Rosemere Property Owners Association (“Order  
19 Appointing Receiver”). The Order Appointing Receiver, drafted by the Lytle Trust, directs the Receiver  
20 to “[i]ssue and collect a special assessment upon all owners within the Association to satisfy the Lytle  
21 Trust’s judgments against the Association.” Order Appointing Receiver at 2:19-20. It further empowers  
22 the Receiver with “the authority to assess all Association unit owners to pay for any operation costs or  
23 to pay for judgments against the Association. If an Association member does not pay an assessment then  
24 the Receiver may proceed to foreclose on said member’s ownership interest in the property.” *Id.* at 6:4-  
25 7.

26  
27 <sup>3</sup> The Court notes that the Second Order of Affirmance was issued after entry of the Order Appointing  
28 Receiver and the Lytle Trust could not have informed the Receivership Court of it prior to entry of the  
Order Appointing Receiver.

18. On or around January 22, 2020, the Plaintiffs and the Dismans<sup>4</sup> each received a letter from Kevin Singer of Receivership Specialists regarding the appointment of Mr. Singer as the Receiver in the Receivership Action (“Receiver Letter”). In the Receiver Letter, Mr. Singer states that “[t]he appointment of the receivership is predicated on judgments against the HOA in the approximate amount of \$1,481,822 by the Lytle family (“the Plaintiff”).... These judgments need to be paid and the Court agreed with the Plaintiff by appointing a Receiver to facilitate the satisfying of the judgments.... We would like to meet with title holding members of the HOA...[to] share three ideas we have to pay these judgments.”

19. On January 29, 2020, counsel for Plaintiffs sent a letter to the Receiver, with a copy to counsel for the Lytle Trust, notifying the Receiver that the Orders and Permanent Injunctions issued in this Case prevent further effort to collect the Rosemere Judgments from the Plaintiffs or other property owners. The Plaintiffs expressed their belief this effort to assess the property owners to pay the Rosemere Judgments violated this Court’s Orders and demanded that the Receiver cease and desist.

20. On March 4, 2020, the Plaintiffs filed the instant Motion informing the Court about the Lytle Trust’s actions and seeking sanctions for violation of this Court’s May 2018 Order. The Boulden Trust and Lamothe Trust filed a Joinder to the Motion on March 5, 2020.<sup>5</sup> The Dismans filed a Joinder to the Motion on March 6, 2020.

21. The Association has never been a party to this Case.

### **CONCLUSIONS OF LAW**

1. This case has a history, such as the filing of the *lis pendens* against the Boulden Trust and Lamothe Trust properties after the Court had ordered the expungement of the Abstracts of Judgment and continued enforcement of the Abstracts of Judgment against the September Trust, Zobrist Trust, Sandoval Trust, and Gegens’ properties after entry of the July 2017 Order, that demonstrates that the Lytle Trust does not respect this Court’s Orders.

---

<sup>4</sup> At the time, the Boulden Trust and Lamothe Trust no longer held title to any property within the Rosemere Subdivision, having sold their properties on August 4, 2017, and May 1, 2019, respectively.

<sup>5</sup> After the hearing on the Motion but prior to entry of this Order, the Boulden Trust and the Lamothe Trust withdrew their Joinders pursuant to a settlement with the Lytle Trust. Therefore, the Boulden Trust and Lamothe Trust are no longer considered movants for purposes of the relief granted herein.

2. This Court has inherent power to enforce its decrees, orders and judgments. A party is required to adhere to court orders, even disagreeable or erroneous orders, until terminated or overturned.

3. The proper course of action if a party disagrees with a Court order is to appeal.

4. The May 2018 Order must be obeyed by the Lytle Trust.

5. Each paragraph, each finding of fact, and each conclusion of law in the May 2018 Order must be given its plain meaning, and each paragraph of that Order's permanent injunction must be obeyed by the Lytle Trust.

6. As a result of the Findings of Fact and Conclusions of Law in the May 2018 Order, there were specific orders which are not mutually exclusive. Each issue ordered by the Court should be given its meaning, and they are not in conflict.

7. The Court's factual determinations and conclusions of law culminated with the permanent injunction language starting at Page 10, Line 10 of the May 2018 Order, which stated:

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from recording and enforcing the Judgments obtained from the Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other judgments obtained against the Association, against the September Property, Zobrist Property, Sandoval Property or Gegen Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from taking any action in the future directly against the Plaintiffs or their properties based upon the Rosemere Litigation I, Rosemere Litigation II or Rosemere Litigation III.

8. These paragraphs are not mutually exclusive and each must be obeyed by the Lytle Trust.

9. The Findings of Fact, Conclusions of Law, and Orders contained in the May 2018 Order, including the permanent injunctions, are clear, specific and unambiguous as to what the parties could and could not do in this case. Further, the terms of the permanent injunction are specific and definite so that the Lytle Trust could readily know exactly what duties or obligations were imposed on it.

10. The May 2018 Order's permanent injunction clearly precluded the Lytle Trust from doing anything as it relates to enforcing and recording the Rosemere Judgments against the Plaintiffs and Dismans or their properties.

11. Indeed, the Lytle Trust has no judgment creditor rights to try to collect the Rosemere Judgments from the Plaintiffs or Dismans in any way, shape, or form.



1           **IT IS HEREBY ORDERED ADJUDGED AND DECREED** that Plaintiffs' Motion for Order  
2 to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders, as  
3 well as the Joinders thereto filed by the Boulden Trust, the Lamothe Trust, and the Dismans, are  
4 GRANTED.

5           **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust  
6 violated the May 2018 Order.

7           **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust  
8 is in contempt of the May 2018 Order.

9           **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust  
10 shall pay a \$500 penalty to each movant for violation of the May 2018 Order; specifically, \$500 payable  
11 to the September Trust, \$500 payable to the Zobrist Trust, \$500 payable to the Sandoval Trust, \$500  
12 payable to the Gegens, and \$500 payable to the Dismans.

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1 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the September  
 2 Trust, Zobrist Trust, Sandoval Trust, Gegens, and Dismans, may file applications for their reasonable  
 3 expenses, including, without limitation, attorney's fees, incurred by the party as a result of the contempt.  
 4 The Court will consider such applications on the merits.

5 **IT IS SO ORDERED.**

6 Dated this 22 day of May, 2020.

7   
 8 DISTRICT COURT JUDGE CG

9 **Submitted by:**

10 **CHRISTENSEN JAMES & MARTIN**

11 /s/ Wesley J. Smith

12 Wesley J. Smith, Esq.  
 13 Nevada Bar No. 11871  
 14 Laura J. Wolff, Esq.  
 15 Nevada Bar No. 6869  
 16 7440 W. Sahara Ave.  
 17 Las Vegas, NV 89117  
 18 *Attorneys for Plaintiffs September Trust,*  
 19 *Zobrist Trust, Sandoval Trust, and*  
 20 *Dennis & Julie Gegen*

**Approved as to Form and Content by:**

**FIDELITY NATIONAL LAW GROUP**

/s/ Christina H. Wang

CHRISTINA H. WANG, ESQ.  
 Nevada Bar No. 9713  
 8363 W. Sunset Road, Suite 120  
 Las Vegas, Nevada 89113  
*Attorneys for Robert & Yvonne Disman*

16 **Reviewed by Not Approved by:**

17 **LEWIS ROCA ROTHBERGER CHRISTIE**  
 18 **LLP**

19 Reviewed But Not Approved

20 DAN R. WAITE, ESQ.  
 21 Nevada Bar 4078  
 22 3993 Howard Hughes Parkway, Suite 600  
 23 Las Vegas, Nevada 89169  
 24 *Attorneys for Lytle Trust*

**RE: Case No. A-16-747800-C - Boulden v. Lytle - ORDR - Proposed Order Granting Plaintiffs' Motion for Order to Show Cause**

Wang, Christina <Christina.Wang@fnf.com>

Mon 5/18/2020 9:52 AM

To: Wesley Smith <wes@cjmlv.com>

Cc: Engelman, Lace <Lace.Engelman@fnf.com>

Approved – thanks.

Christina H. Wang

Litigation Counsel

Fidelity National Law Group

8363 W. Sunset Road, Suite 120

Las Vegas, Nevada 89113

702-667-3000 (Main)

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[christina.wang@fnf.com](mailto:christina.wang@fnf.com)

**PLEASE NOTE THAT OUR OFFICE HAS MOVED TO THE ABOVE ADDRESS.**

*The Law Division of Alamo Title Insurance, Chicago Title Insurance Co., Commonwealth Land Title Insurance Co., Fidelity National Title Insurance Co., and Fidelity National Title Group, Inc.*

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---

**From:** Wesley Smith <wes@cjmlv.com>

**Sent:** Monday, May 18, 2020 9:45 AM

**To:** Wang, Christina <Christina.Wang@fnf.com>

**Cc:** Engelman, Lace <Lace.Engelman@fnf.com>

**Subject:** Re: Case No. A-16-747800-C - Boulden v. Lytle - ORDR - Proposed Order Granting Plaintiffs' Motion for Order to Show Cause

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Christina,

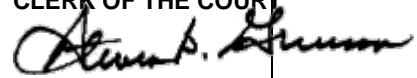
Per our discussion, can you please approve this version which adds the date to footnote 2?

Wes Smith

Christensen James & Martin

36

36



**OPPM**

**CHRISTENSEN JAMES & MARTIN**

KEVIN B. CHRISTENSEN, ESQ. (175)

WESLEY J. SMITH, ESQ. (11871)

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*Attorneys for September Trust, Zobrist Trust, Sandoval Trust,  
and Dennis & Julie Gegen*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST, *et*  
*al.*,

Plaintiffs,

vs.

TRUDI LEE LYTLE, *et al.*,

Defendants.

Case No.: A-16-747800-C

Dept. No.: XVI

**OPPOSITION TO DEFENDANT  
LYTLE TRUST'S MOTION FOR  
CLARIFICATION**

SEPTEMBER TRUST, DATED MARCH 23,  
1972, *et al.*,

Plaintiffs,

vs.

TRUDI LEE LYTLE AND JOHN ALLEN  
LYTLE, AS TRUSTEES OF THE LYTLE  
TRUST, *et al.*,

Defendants.

Case No.: A-17-765372-C

Dept. No.: XVI

Consolidated

DATE OF HEARING: July 2, 2020

TIME OF HEARING: 9:00 a.m.

September Trust, dated March 23, 1972 ("September Trust"), Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the Gerry R. Zobrist and Jolin G. Zobrist Family Trust ("Zobrist Trust"), Raynaldo G. Sandoval and Julie Marie Sandoval Gegen, as Trustees of the Raynaldo G. and Evelyn A. Sandoval Joint Living and Devolution Trust Dated May 27, 1992 ("Sandoval Trust"), and Dennis A. Gegen and Julie S. Gegen, Husband and Wife, as Joint Tenants

1 (“Gegen”) (hereafter September Trust, Zobrist Trust, Sandoval Trust and Gegen may be  
2 collectively referred to as “Plaintiffs”), by and through their attorneys, Christensen James &  
3 Martin, hereby Oppose Defendant Lytle Trust’s Motion for Clarification. This Opposition is  
4 based upon the following Memorandum of Points and Authority, Exhibits, Affidavit, all other  
5 documents on file with the Court in this matter, and any argument allowed at the time of the  
6 hearing of this matter.

7 DATED this 29th day of May 2020.

CHRISTENSEN JAMES & MARTIN

By: /s/ Wesley J. Smith

Wesley J. Smith, Esq.

Nevada Bar No. 11871

*Attorneys for September Trust, Zobrist  
Trust, Sandoval Trust and Gegen*

## 11 MEMORANDUM OF POINTS AND AUTHORITIES

### 12 I.

#### 13 INTRODUCTION

14 The Lytle Trust’s Motion seeks clarification of the Court’s April 22, 2020 oral ruling  
15 granting the Plaintiffs’ Motion for Order to Show Cause Why the Lytle Trust Should Not Be  
16 Held in Contempt for Violation of Court Orders. However, the Court already made its intention  
17 clear during oral argument. The question presented in the Lytle Trust’s Motion was asked and  
18 answered. The Court’s Orders prevented enforcement of the Rosemere Judgments “vis-a-vis the  
19 homeowners in this case.” Transcript at 39:8-12. The Defendant acknowledges this statement but  
20 uses a series exchanges between its counsel and the Court to discount the clarity of the Court’s  
21 answer. Since the Court already answered the question directly and clearly during oral argument,  
22 the Defendant’s motion is unnecessary.

23 Moreover, the Lytle Trust’s Motion was filed prior to entry of this Court’s Order  
24 Granting Plaintiffs’ Motion for Order to Show Cause Why the Lytle Trust Should Not Be Held  
25 in Contempt for Violation of Court Orders (“Order”) on May 22, 2020. If there was any doubt as  
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1 to the Court's intent, it was resolved by entry of the written Order after consideration of the  
2 competing orders submitted by the parties.

3 Therefore, the Motion is moot. All other relief requested in the Motion is speculative and  
4 prospective. The Court should avoid the Defendant's request to enter an advisory opinion.  
5 Accordingly, the Motion for Clarification should be denied.

## 6 II.

### 7 ARGUMENT

#### 8 A. The Court Clarified its Order During Oral Argument

9 The Defendant is correct that there was a series of exchanges between its counsel and the  
10 Court concerning the scope of limitations imposed by the May 2018 Order. On multiple  
11 occasions, the Court was interrupted before it could finish explaining its positions. *See, e.g.,*  
12 Transcript at 34:23-24. However, the exchange culminated when Mr. Waite presented his  
13 question again:

14 And I'll ask it again, and I'll ask it maybe not as a rhetorical question. Pending the  
15 answer, quite honestly, I may have nothing else to say. I may have nothing that I  
16 know of to say. But *did you intend by your Permanent Injunction here to strip*  
17 *the Lytle Trust of all of its judgment creditor rights against the judgment debtor*  
18 *association?*

19 *Id.* at 38:25-39:7 (emphasis added). This is the question presented in the Lytle Trust's Motion, so  
20 the Court's response is very important. The Court answered:

21 THE COURT: Well, the association wasn't a party, but the bottom line is this: **I**  
22 **stripped the Lytle Trust of their ability and right to enforce those judgments**  
23 ***vis-a-vis the homeowners in this case.***

24 *Id.* at 39:8-12 (emphasis added). The Court could not have been any clearer that its Orders were  
25 limited to blocking enforcement of the Rosemere Judgments against the Plaintiffs. This clarified  
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1 all prior discussion during the oral argument and directly answers the question presented in the  
2 Defendant's Motion.

3 **B. The Court Clarified its Permanent Injunction and its Oral Ruling When it**  
4 **Entered its May 22, 2020 Written Order**

5 If any doubt remained, the Court finally and conclusively resolved the issue when it  
6 entered its written Order, which included the following Conclusions of Law:

7 10. The May 2018 Order's permanent injunction clearly precluded the Lytle Trust  
8 from doing anything as it relates to enforcing and recording the Rosemere  
Judgments *against the Plaintiffs and Dismans or their properties*.

9 11. Indeed, the Lytle Trust has no judgment creditor rights to try to collect the  
10 Rosemere Judgments *from the Plaintiffs or Dismans* in any way, shape, or form.  
11 Order at 10:23-28 (emphasis added). The Court was presented with competing orders. The  
12 Defendant's proposed order did not have the language emphasized above and this difference  
13 between the competing orders was highlighted by the parties. The Court conclusively answered  
14 the question by entering the Order prepared by the Plaintiffs that included the emphasized  
15 language. In other words, the Court did not strip the Lytle Trust of all creditor rights but did  
16 prohibit enforcement of the Rosemere Judgments against the Plaintiffs.

17 **C. The Court Should Not Give an Advisory Opinion on Speculative Future Action**

18 The Court's Order addressed actual past action by the Lytle Trust. The Lytle Trust's  
19 request that the Court provide guidance on which creditor rights the Lytle Trust can exercise in  
20 the future is not a justiciable controversy capable of resolution by this Court. *Nat'l Collegiate*  
21 *Athletic Ass'n v. Univ. of Nevada, Reno.*, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981) ("Of course, the  
22 duty of every judicial tribunal is to decide actual controversies by a judgment which can be  
23 carried into effect, and not to give opinions upon moot questions or abstract propositions, or to  
24 declare principles of law which cannot affect the matter in issue before it."). Therefore, there is  
25 no relief that can be granted to the Lytle Trust and the Motion must be denied.

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1 IV.  
2 CONCLUSION

3 The Court has clearly expressed its findings and conclusions during the hearing and in  
4 its written Order. Further argument on the matter is not necessary or appropriate. The Court  
5 should not provide legal advice to the Lytle Trust on how to proceed in the future. For these  
6 reasons, the Motion for Clarification should be denied.

7 DATED this 29th day of May 2020.

8 CHRISTENSEN JAMES & MARTIN

9 By: /s/ Wesley J. Smith  
10 Wesley J. Smith, Esq.  
11 Nevada Bar No. 11871  
12 *Attorneys for September Trust, Zobrist*  
13 *Trust, Sandoval Trust and Gegen*  
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001458

**CERTIFICATE OF SERVICE**

I am an employee of Christensen James & Martin. On May 29, 2020, I caused a true and correct copy of the foregoing **OPPOSITION TO DEFENDANT LYTLE TRUST'S MOTION FOR CLARIFICATION** to be served in the following manner:

☒ **ELECTRONIC SERVICE**: electronic transmission (E-Service) through the Court's electronic filing system pursuant to Rule 8.05 of the Rules of Practice for the Eighth Judicial District Court of the State of Nevada.

Liz Gould (liz@foleyoakes.com)  
Daniel Foley (Dan@foleyoakes.com)  
Maren Foley (maren@foleyoakes.com)  
Jennifer Martinez (jennifer.martinez@fnf.com)  
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☐ **UNITED STATES MAIL**: depositing a true and correct copy of the above-referenced document into the United States Mail with prepaid first-class postage, addressed to the parties at their last-known mailing address(es):

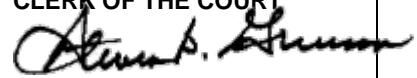
☐ **FACSIMILE**: By sending the above-referenced document via facsimile as follows:

☐ **E-MAIL**: electronic transmission by email to the following address(es):

/s/ Natalie Saville  
Natalie Saville

*37*

*37*



**RPLY**

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Facsimile: 702-949-8398

*Attorneys for Defendants*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST,  
LINDA LAMOTHE AND JACQUES  
LAMOTHE, TRUSTEES OF THE  
JACQUES & LINDA LAMOTHE LIVING  
TRUST,

Plaintiffs,

vs.

TRUDI LEE LYTLE, JOHN ALLEN  
LYTLE, THE LYTLE TRUST, DOES I  
through X, and ROE CORPORATIONS I  
through X,

Defendants.

Case No.: A-16-747800-C  
Dept. No.: XVI

**DEFENDANT LYTLE TRUST'S  
REPLY IN SUPPORT OF MOTION  
FOR CLARIFICATION**

**Date of Hearing: July 2, 2020  
Time of Hearing: 9:00 a.m.**

SEPTEMBER TRUST, DATED MARCH 23,  
1972; GERRY R. ZOBRIST AND JOLIN G.  
ZOBRIST, AS TRUSTEES OF THE GERRY  
R. ZOBRIST AND JOLIN G. ZOBRIST  
FAMILY TRUST; RAYNALDO G.  
SANDOVAL AND JULIE MARIE  
SANDOVAL GEGEN, AS TRUSTEES OF  
THE RAYNALDO G. AND EVELYN A.  
SANDOVAL JOINT LIVING AND

Case No.: A-17-765372-C  
Dept. No.: XVI

CONSOLIDATED

1 DEVOLUTION TRUST DATED MAY 27,  
2 1992; and DENNIS A. GEGEN AND JULIE  
3 S. GEGEN, HUSBAND AND WIFE, AS  
4 JOINT TENANTS,

5 Plaintiffs,

6 vs.

7 TRUDI LEE LYTLE AND JOHN ALLEN  
8 LYTLE, AS TRUSTEES OF THE LYTLE  
9 TRUST; JOHN DOES I through V; and ROE  
10 ENTITIES I through V, inclusive,

11 Defendants.

12 Plaintiffs successfully moved the Court to hold the Lytle Trust in contempt of  
13 this Court's May 2018 permanent injunction. Yet, Plaintiffs do not want the Lytle  
14 Trust to receive any guidance from the Court in its effort to avoid future contempt  
15 sanctions. Apparently, Plaintiffs believe the Lytle Trust must proceed at its own  
16 peril instead of seeking clarification as a precautionary measure to avoid future  
17 violations, whereupon Plaintiffs will seek contempt sanctions again. This is  
18 gamesmanship at its best.

19 **A. The Court's Contempt Order Partially Resolves The Motion**

20 The Motion to Clarify did not advocate for a particular position—it merely  
21 asked the Court to clarify its prior permanent injunction in light of the recent  
22 contempt hearing. Similarly, the competing order submitted by the Lytle Trust did  
23 not advocate for a particular position—it merely recognized that the proposed order  
24 submitted by Plaintiffs was not consistent with numerous statements made by the  
25 Court during the contempt hearing. In signing Plaintiffs' proposed order on May 22,  
26 2020, the Court provided partial clarification.

27 More particularly, in signing Plaintiffs' proposed order ("Contempt Order"),  
28 the Court impliedly clarified that it did not strip the Lytle Trust of *all* its judgment  
creditor rights. However, questions still remain regarding whether the Court  
stripped the Lytle Trust of *any* of its judgment creditor rights and, if so, which ones

1 and why (i.e., what are the guiding principles if the Court stripped the Lytle Trust of  
 2 some but not other judgment creditor rights). This clarification is vital so the Lytle  
 3 Trust can avoid being held in contempt again as it moves forward to collect its  
 4 judgments.

5 **B. Further Clarification Does Not Constitute An Advisory Opinion**

6 Plaintiffs' rely on *N.C.A.A. v. Univ. of Nevada, Reno*, 97 Nev. 56, 57, 624 P.2d  
 7 10, 10 (1981), for the proposition that this Court cannot "provide guidance on which  
 8 creditor rights the Lytle Trust can exercise in the future." (Opp. at 4:18-19).  
 9 Plaintiffs misconstrue *N.C.A.A.* and disregard other applicable law.

10 *N.C.A.A.* involved the unique situation where the NCAA directed UNR to  
 11 declare one of its basketball players (Mr. Edgar Jones) ineligible to play. Mr. Jones  
 12 sued UNR and the court entered a preliminary injunction that allowed Mr. Jones to  
 13 play while the lawsuit proceeded. After commencement of the action, the NCAA and  
 14 the West Coast Athletic Conference ("Conference") intervened. By the time the case  
 15 was brought to trial, however, Mr. Jones had played out his eligibility and graduated  
 16 from UNR. Accordingly, the district court determined that Mr. Jones' claims had  
 17 become moot and dismissed the action. The NCAA and the Conference, who asserted  
 18 no counterclaims or cross-claims, appealed.

19 On these facts and procedure, the Nevada Supreme Court, in a very short  
 20 opinion, affirmed dismissal and ruled that "the duty of every judicial tribunal is to  
 21 decide actual controversies by a judgment which can be carried into effect, and not to  
 22 give opinions upon moot questions or abstract propositions, *or to declare principles of*  
 23 *law which cannot affect the matter in issue before it.* . . . A moot case is one which  
 24 seeks to determine an abstract question *which does not rest upon existing facts or*  
 25 *rights.*" *N.C.A.A.*, 97 Nev. at 57-58, 624 P.2d at 10-11 (emphasis added).

26 Here, unlike in *N.C.A.A.*, the requested relief can "affect the matter in issue  
 27 before" this Court. And, the determination is not moot because the requested  
 28 clarification will "rest upon existing facts [and] rights." More particularly, in *NCAA*

1 there was nothing left to resolve by way of a future judgment. Here, a (1) judgment  
 2 already exists and it contains a permanent injunction (i.e., existing facts), and (2)  
 3 the permanent injunction affects the Lytle Trust's judgment creditor rights against  
 4 the Association (i.e., existing rights). In other words, the Lytle Trust has existing  
 5 and on-going judgment creditor rights that are affected by this Court's permanent  
 6 injunction, thus warranting clarification.

7 Indeed, in seeking clarification, the Lytle Trust is doing exactly what it should  
 8 do instead of making its own determination and acting at its own peril. For example,  
 9 in *Donovan v. Sureway Cleaners*, 656 F.2d 1368, 1373 (9th Cir. 1981), the court  
 10 declared that "[i]f . . . Sureway was unsure as to the applicability of the prior  
 11 injunction, it could have petitioned the court for a . . . clarification of the order.  
 12 [Citations omitted.] By in effect making its own determination as to what the  
 13 injunction meant, Sureway acted at its peril." See e.g., *McComb v. Jacksonville*  
 14 *Paper Co.*, 336 U.S. 187, 192 (1949) ("Respondents could have petitioned the District  
 15 Court for a . . . clarification . . . of the order. But respondents did not take that course  
 16 either. They undertook to make their own determination of what the decree meant.  
 17 They knew they acted at their peril."); *Parris v. Pappas*, 2017 WL 9480196, at \*3 (D.  
 18 Conn. 2017) ("Parties are bound by a court order . . and defendants who act without  
 19 first asking the court to clarify the order 'act [] at their own peril.'") (quoting  
 20 *McComb*, 336 U.S. at 192); *Grove Fresh Distributors, Inc. v. John Labatt, Ltd.*, 888 F.  
 21 Supp. 1427, 1439 (N.D. Ill. 1995) ("If Mr. Messina had any doubts about exactly what  
 22 he could or could not disclose [under the court's confidentiality order], he had the  
 23 continuing opportunity to seek clarification."); *BE&K Constr. Co. v. Boyd*, 1991 WL  
 24 38168, at \*1 (Minn. Ct. App. 1991) ("Those who fail to seek . . . clarification of a court  
 25 order act at their own peril."). The Lytle Trust wants to avoid acting at its own  
 26 peril—it therefore takes this precautionary approach of asking for clarification.

27 ////

28 ////

Further, in *Kishner v. Kishner*, 93 Nev. 220, 225-26, 562 P.2d 493, 496 (1977), the Nevada Supreme Court declared that a district court “has inherent power to construe its judgments and decrees for the purpose of removing any ambiguity.” Here, with all due respect, the Court’s orders are ambiguous. On the one hand, by signing the Plaintiffs’ proposed Contempt Order, the Court clarified that it did not strip the Lytle Trust of *all* its judgment creditor rights against the Association. On the other hand, in holding the Lytle Trust in contempt for seeking the appointment of a receiver over the Association, it is clear the Court stripped the Lytle Trust of that judgment creditor right.

If the Court stripped the Lytle Trust of some but not all its judgment creditor rights, ambiguity exists regarding what judgment creditor rights the Lytle Trust can exercise without violating this Court’s permanent injunction. Relatedly, but different, are there judgment creditor rights that can be exercised only under certain conditions without violating the permanent injunction, but if exercised under different conditions will be deemed a violation? For example, during the April 22, 2020, contempt hearing, Plaintiffs’ counsel argued that “the very nature” of “appointing a receiver to take over the [A]ssociation . . . affects the property rights of the homeowners” and therefore constitutes “an action against the property of the homeowners.”<sup>1</sup> (Trans. (4/22/20) at 59:16-24). Additionally, Plaintiffs’ counsel, responding to an argument made by the undersigned during the contempt hearing, suggested the Association could not receive a loan to pay the Lytle Trust’s judgments because “that’s just a roundabout way of making special assessments because how

<sup>1</sup> In seeking the appointment of a Receiver, the Lytle Trust exercised two different rights. The right at issue here was its right *as a judgment creditor* to seek the appointment of a receiver over its judgment debtor Association to facilitate satisfaction of the Lytle Trust’s judgments. The other exercised right was *as a member of the Association* to seek the appointment of a Receiver over the Association to facilitate various operational matters, e.g., reinstatement of the Association with the Nevada Secretary of State and Nevada Real Estate Division, reconstitute the Association’s Board, etc.

The Lytle Trust understands and interprets the Court’s recent Contempt Order as holding it in contempt only to the extent the Receiver was sought in the Lytle Trust’s capacity as a judgment creditor to facilitate payment of the judgments, and not to the extent the Receiver was sought by the Lytle Trust as an Association member to facilitate operational matters. If the Lytle Trust’s understanding and interpretation is not correct, however, it requests clarification on this point.

1 would the [A]ssociation pay back a loan to pay these judgments without making  
 2 special assessments on these property owners? It just can't be done." (Trans.  
 3 (4/22/20) at 60:15-20). In other words, Plaintiffs' counsel argued that if the Lytle  
 4 Trust exercised a judgment creditor right in a way that affects the homeowners, even  
 5 indirectly, such constitutes a violation of the permanent injunction.

6 However, Plaintiffs' counsel conversely argued that the Lytle Trust "still [has]  
 7 the option to go and use garnishment . . . and execution, all of the rights that are  
 8 given to [it] under NRS to be able to collect on the judgment[s]." (Id. at 61:23-62:7,  
 9 emphases added). Yet, since the only source of income to the Association comes from  
 10 the nine homeowners, every garnishment and execution upon the Association's  
 11 account (and, indeed, every exercise of a judgment creditor right) will affect the  
 12 homeowners in some way.

13 In short, Plaintiffs argued that the Lytle Trust had "all of the rights" given to  
 14 judgment creditors, and yet none which could indirectly affect them as homeowners  
 15 or their properties. Because virtually every exercise of a judgment creditor right  
 16 against the Association will have *some* indirect impact on the homeowners, Plaintiffs'  
 17 argument reduces to the inconsistent position that the Lytle Trust has all judgment  
 18 creditor rights and no judgment creditor rights (at least, none it can actually  
 19 exercise). Thus, no matter what the Lytle Trust does going forward, short of doing  
 20 nothing to collect its valid judgments, will likely subject it to another contempt  
 21 motion from Plaintiffs.

22 The Lytle Trust seeks clarification from this Court regarding which of its  
 23 judgment creditor rights it can exercise and whether it can do so only in certain  
 24 circumstances. To be sure, if the Lytle Trust can exercise its judgment creditor  
 25 rights only if such does not have any impact upon the homeowners or their  
 26 properties, then the Lytle Trust effectively has no judgment creditor rights at all.  
 27 The purpose of this Motion is to provide clarification so the Lytle Trust can guide  
 28 itself and thereby avoid future contempt rulings. Indeed, clarification benefits all

1 parties—i.e., even Plaintiffs will benefit from clarification. With clarification,  
2 Plaintiffs may be able to avoid the effort and expense of another contempt motion if  
3 that clarification leads them to conclude, contrary to their present understanding  
4 without clarification, that the Lytle Trust’s collection efforts did not violate the  
5 permanent injunction. And, with clarification, the Lytle Trust hopes to avoid another  
6 violation of the permanent injunction.

7 In short, clarification is warranted and will benefit all parties.

8 **C. This Motion also Presents an Opportunity for the Court to Clarify its**  
9 **Own Record for Appeal**

10 The Lytle Trust and undersigned counsel respect this Court. As we  
11 contemplate seeking appellate review of the Contempt Order, we wish to give the  
12 Court an opportunity to specify the order’s meaning and explain its rationale, to  
13 avoid any misconstruction of that order in the Nevada appellate courts.

14 Put simply, as we construe the Court’s ruling and rationale, in light of all the  
15 briefing and discussion during the hearing, including a recognition that the  
16 Association is not a party here, it appears to us:

17 (1) The Court acknowledges that legitimate judgments have been  
18 entered in favor of the Lytle Trust against the Association, which are not stayed;

19 (2) The Court understands that where a judgment is entered against a  
20 business entity, like the Association, the judgment creditor may execute on the  
21 judgment against that judgment debtor entity, just as it could if the judgment debtor  
22 were a natural person;

23 (3) The Court has not ruled it is impossible for all limited purpose  
24 associations, in general, or, more specifically, this Association, to levy assessments to  
25 satisfy the Association’s obligations;

26 (4) The Court has not ruled that appointment of a receiver over this  
27 Association is *per se* improper;  
28

1 (5) The Court has not ruled that this Association could never levy  
2 assessments to satisfy a judgment against it;

3 (6) The Court agrees that no statute or case law was presented that  
4 shields the Association from imposition of a receiver to satisfy the Association's  
5 obligations; but yet

6 (7) The Court has ruled that the Lytle Trust may not impose on the  
7 Association in any manner that eventually might lead to the Association making  
8 assessments to satisfy its judgment obligation, which includes banning the Lytle  
9 Trust, in its capacity as a judgment creditor, from petitioning for appointment of a  
10 receiver over the Association for that purpose; and

11 (8) The reason the judgment-creditor Lytle Trust may not prompt or  
12 encourage the judgment-debtor Association to make assessments to satisfy its  
13 judgment obligation is because the Court had previously barred the Lytle Trust from  
14 executing on its judgment *directly* against the Association homeowners.

15 Respectfully, if we misunderstand, we invite this Court to clarify before we  
16 make these representations to the Nevada Supreme Court.

17 **D. Conclusion**

18 The Lytle Trust's judgments against the Association were issued in different  
19 departments of the Eighth Judicial District Court. Thus, future efforts to enforce the  
20 judgments will occur in those other departments, not here. And, since Plaintiffs are  
21 NOT parties to ANY of the actions where the Lytle Trust was awarded a judgment,  
22 the Plaintiffs will not receive contemporaneous notice of those collection efforts;  
23 however, upon learning of those collection efforts the Plaintiffs may claim such  
24 violate this Court's permanent injunction (and may seek contempt sanctions again).  
25 If contempt sanctions are sought again, they will be sought here since this Court  
26 issued the permanent injunction. The Lytle Trust respectfully requests clarification  
27 from the Court so that it can be guided in knowing how to satisfy (1) its right to  
28 collect its judgments, and (2) its obligation to comply with the permanent injunction.

1 For all the foregoing reasons, the Lytle Trust requests the Court clarify its  
 2 permanent injunction in light of the recent Contempt Order and this Motion,  
 3 including as follows:

4 1. Which judgment creditor rights can the Lytle Trust exercise against the  
 5 judgment debtor Association (or in what circumstances can a judgment creditor right  
 6 be exercised) without violating this Court's permanent injunctions?

7 2. For example, may the Lytle Trust exercise any or all of the following  
 8 judgment creditor rights:

9 a. Conduct a judgment creditor examination of the Association even  
 10 if such necessitates (1) assessment of the Receiver's fees against all  
 11 homeowners for the Receiver appearing as the examination witness, or, (2) a  
 12 homeowner, instead of the Receiver, appearing as the examination witness;

13 b. Execute and garnish the Association's bank account(s) and other  
 14 assets even if such deprives the homeowners of a needed repair or necessitates  
 15 additional repair assessments against the homeowners;

16 c. Garnish the Association's assets in the hands of third parties,  
 17 including dues or other assessments owed by the Association's members;

18 d. Traverse third party garnishment interrogatory answers,  
 19 including those from Association members, if the Lytle Trust believes their  
 20 answers are not correct as a matter of fact or law;

21 e. Conduct regular discovery (e.g., document requests,  
 22 interrogatories, depositions, etc.) from "any person" including, but not limited  
 23 to, the Association. *See* NRCP 69(a)(2).

24 Dated this 17<sup>th</sup> day of June, 2020.

25 **LEWIS ROCA ROTHGERBER CHRISTIE LLP**

26 By: /s/ Dan R. Waite

27 DAN R. WAITE (SBN 4078)

28 JOEL D. HENRIOD (SBN 8492)

3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that on this day, I caused a true and correct copy of the following ***“DEFENDANT LYTLE TRUST’S REPLY IN SUPPORT OF MOTION FOR CLARIFICATION”*** to be e-filed and served via the Court’s E-Filing System.

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*Attorneys for Defendants*

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*Attorneys for Intervenor September Trust,  
 Zobrist Trust, Sandoval Trust and Dennis & Julie Gegen*

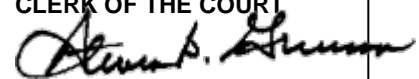
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*Attorneys for Robert Z. Disman and Yvonne A. Disman*

Dated this 17<sup>th</sup> day of June, 2020

/s/ Luz Horvath  
 An Employee of Lewis Roca Rothgerber Christie LLP

38

38



1 **NOAS**  
2 JOEL D. HENRIOD  
3 Nevada Bar No. 8492  
4 DANIEL F. POLSENBERG  
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15 *Attorneys for Defendants Trudi Lee Lytle and*  
16 *John Allen Lytle, as Trustees of the Lytle Trust*

17  
18 DISTRICT COURT  
19 CLARK COUNTY, NEVADA

20 MARJORIE B. BOULDEN, trustee of the  
21 Marjorie B. Boulden Trust; LINDA  
22 LAMOTHE; and JACQUES LAMOTHE,  
23 Trustees of the Jacques & Linda  
24 Lamothe Living Trust,

25 Plaintiffs,

26 v.

27 TRUDI LEE LYTLE; and JOHN ALLEN  
28 LYTLE, as trustees of the Lytle Trust,  
DOES I through X, inclusive, and ROE  
CORPORATIONS I through X,

Defendants.

Case No. A-16-747800-C

Dep't No. 16

**NOTICE OF APPEAL**

SEPTEMBER TRUST, DATED MARCH 23,  
1972; GERRY R. ZOBRIST and JOLIN G.  
ZOBRIST, as Trustees of the Gerry R.  
Zobrist and Jolin G. Zobrist Family  
Trust; RAYNALDO G. SANDOVAL and  
JULIE MARIE SANDOVAL GEGEN, As  
Trustees of the Raynaldo G. and  
Evelyn A. Sandoval Joint Living and  
Devolution Trust Dated May 27, 1992;  
and DENNIS A. GEGEN and JULIE S.  
GEGEN, husband and wife, as joint  
tenants,

Plaintiffs,

Consolidated with:

Case No. A-17-765372-C

Dep't No. 16

1 v.

2 TRUDI LEE LYTLE; and JOHN ALLEN  
3 LYTLE, as trustees of the Lytle Trust,  
4 JOHN DOES I through V, inclusive, and  
ROE ENTITIES I through V, inclusive,

Defendants.

5 Please take notice that defendants Trudi Lee Lytle and John Allen  
6 Lytle, as Trustees of the Lytle Trust hereby appeal to the Supreme Court of  
7 Nevada from:

8 1. "Order Granting Plaintiffs' Motion for Order to Show Cause Why  
9 the Lytle Trust Should Not be Held in Contempt for Violation of Court Orders,"  
10 filed May 22, 2020, notice of entry of which was served electronically on May 22,  
11 2020 (Exhibit A); and

12 2. All judgments, rulings and interlocutory orders made appealable by  
13 the foregoing.

14 Dated this 22nd day of June, 2020.

15 LEWIS ROCA ROTHGERBER CHRISTIE LLP

16 By: /s/Joel D. Henriod

17  
18 JOEL D. HENRIOD (SBN 8492)  
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21  
22 *Attorneys for Defendants Trudi Lee Lytle and*  
23 *John Allen Lytle, as Trustees of the Lytle*  
24 *Trust*

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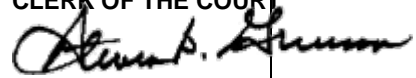
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/s/ Lisa M. Noltie  
An Employee of LEWIS ROCA ROTHGERBER CHRISTIE LLP

# EXHIBIT A

001473

# EXHIBIT A



NEOJ  
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Nevada Bar No. 175  
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*Attorneys for September Trust, Zobrist Trust, Sandoval Trust,  
and Dennis & Julie Gegen*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST, *et*  
*al.*,

Plaintiffs,

vs.

TRUDI LEE LYTLE, *et al.*,

Defendants.

Case No.: A-16-747800-C  
Dept. No.: XVI

**NOTICE OF ENTRY OF ORDER  
GRANTING PLAINTIFFS'  
MOTION FOR ORDER TO SHOW  
CAUSE WHY THE LYTLE TRUST  
SHOULD NOT BE HELD IN  
CONTEMPT FOR VIOLATION OF  
COURT ORDERS**

SEPTEMBER TRUST, DATED MARCH 23,  
1972, *et al.*,

Plaintiffs,

vs.

TRUDI LEE LYTLE AND JOHN ALLEN  
LYTLE, AS TRUSTEES OF THE LYTLE  
TRUST, *et al.*,

Defendants.

Case No.: A-17-765372-C  
Dept. No.: XVI

CONSOLIDATED

NOTICE IS HEREBY GIVEN, that an Order Granting Plaintiffs' Motion for Order to  
Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders

1 was entered in the above-captioned matter on May 22, 2020. A copy of the Order is attached  
2 hereto.

3 DATED this 22nd day of May 2020.

CHRISTENSEN JAMES & MARTIN

4  
5 By: /s/ Wesley J. Smith  
6 Wesley J. Smith, Esq.  
7 Nevada Bar No. 11871  
8 *Attorneys for September Trust, Zobrist*  
9 *Trust, Sandoval Trust and Gegen*  
10  
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CHRISTENSEN JAMES & MARTIN  
7440 WEST SAHARA AVE., LAS VEGAS, NEVADA 89117  
PH: (702) 255-1718 & FAX: (702) 255-0871

**CERTIFICATE OF SERVICE**

I am an employee of Christensen James & Martin. On May 22, 2020, I caused a true and correct copy of the foregoing Notice of Entry of Order Granting Plaintiffs' Motion for Order to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders, to be served in the following manner:

☒ **ELECTRONIC SERVICE**: electronic transmission (E-Service) through the Court's electronic filing system pursuant to Rule 8.05 of the Rules of Practice for the Eighth Judicial District Court of the State of Nevada.

Liz Gould (liz@foleyoakes.com)  
 Daniel Foley (Dan@foleyoakes.com)  
 Maren Foley (maren@foleyoakes.com)  
 Jennifer Martinez (jennifer.martinez@fnf.com)  
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 Dan R. Waite (DWaite@LRRC.com)

☐ **UNITED STATES MAIL**: depositing a true and correct copy of the above-referenced document into the United States Mail with prepaid first-class postage, addressed to the parties at their last-known mailing address(es):

☐ **FACSIMILE**: By sending the above-referenced document via facsimile as follows:

☐ **E-MAIL**: electronic transmission by email to the following address(es):

/s/ Natalie Saville  
 Natalie Saville

**ORDR****CHRISTENSEN JAMES & MARTIN**

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Nevada Bar No. 175

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*Attorneys for September Trust, Zobrist Trust, Sandoval Trust  
and Dennis & Julie Gegen***EIGHTH JUDICIAL DISTRICT COURT****CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST,  
LINDA LAMOTHE AND JACQUES  
LAMOTHE, TRUSTEES OF THE  
JACQUES & LINDA LAMOTHE LIVING  
TRUST,

Plaintiffs,

vs.

TRUDI LEE LYTLE, JOHN ALLEN  
LYTLE, THE LYTLE TRUST, DOES I  
through X, and ROE CORPORATIONS I  
through X,

Defendants.

Case No.: A-16-747800-C

Dept. No.: XVI

**ORDER GRANTING PLAINTIFFS'  
MOTION FOR ORDER TO SHOW  
CAUSE WHY THE LYTLE TRUST  
SHOULD NOT BE HELD IN  
CONTEMPT FOR VIOLATION OF  
COURT ORDERS**

Date: April 22, 2020

Time: 9:00 a.m.

SEPTEMBER TRUST, DATED MARCH 23,  
1972; GERRY R. ZOBRIST AND JOLIN G.  
ZOBRIST, AS TRUSTEES OF THE GERRY  
R. ZOBRIST AND JOLIN G. ZOBRIST  
FAMILY TRUST; RAYNALDO G.  
SANDOVAL AND JULIE MARIE  
SANDOVAL GEGEN, AS TRUSTEES OF  
THE RAYNALDO G. AND EVELYN A.  
SANDOVAL JOINT LIVING AND

Case No.: A-17-765372-C

Dept. No.: XVI

CONSOLIDATED

1 DEVOLUTION TRUST DATED MAY 27,  
2 1992; and DENNIS A. GEGEN AND JULIE  
3 S. GEGEN, HUSBAND AND WIFE, AS  
4 JOINT TENANTS,

5 Plaintiffs,

6 vs.

7 TRUDI LEE LYTLE AND JOHN ALLEN  
8 LYTLE, AS TRUSTEES OF THE LYTLE  
9 TRUST; JOHN DOES I through V; and ROE  
10 ENTITIES I through V, inclusive,

11 Defendants.

12 Presently before the Court is Plaintiffs' Motion for Order to Show Cause Why the Lytle Trust  
13 Should Not Be Held in Contempt for Violation of Court Orders ("Motion") filed by the September Trust,  
14 dated March 23, 1972 ("September Trust"), Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the  
15 Gerry R. Zobrist and Jolin G. Zobrist Family Trust ("Zobrist Trust"), Raynaldo G. Sandoval and Julie  
16 Marie Sandoval Gegen, as Trustees of the Raynaldo G. and Evelyn A. Sandoval Joint Living and  
17 Devolution Trust dated May 27, 1992 ("Sandoval Trust"), and Dennis A. Gegen and Julie S. Gegen,  
18 Husband and Wife, as Joint Tenants ("Dennis & Julie Gegen") (collectively the "Plaintiffs"), the Joinders  
19 filed by Marjorie B. Boulden, Trustee of the Marjorie B. Boulden Trust, amended and restated dated July  
20 17, 1996 ("Boulden Trust") and Linda Lamothe and Jacques Lamothe, Trustees of the Jacques and Linda  
21 Lamothe Living Trust ("Lamothe Trust") and Robert Z. Disman and Yvonne A. Disman (the "Dismans"),  
22 and the Opposition and Reply thereto, which came on for hearing on April 22, 2020 at 9:00 a.m. in  
23 Department XVI of the Eighth Judicial District Court, Clark County, Nevada.

24 Wesley J. Smith, Esq. of Christensen James & Martin, Chtd. appeared on behalf of the Plaintiffs.  
25 Daniel T. Foley, Esq. of Foley & Oakes, PC appeared on behalf of the Boulden Trust and Lamothe Trust.  
26 Christina H. Wang, Esq. of Fidelity National Law Group appeared on behalf of the Dismans. Dan R.  
27 Waite, Esq. of Lewis Roca Rothgerber Christie LLP and Richard Haskin, Esq. of Gibbs Giden Locher  
28 Turner Senet & Wittbrodt LLP appeared on behalf of Trudi Lee Lytle and John Allen Lytle, as Trustees  
of the Lytle Trust ("Lytle Trust"). Patricia Lee, Esq. of Hutchison & Steffen was present on behalf of  
Kevin Singer, court appointed Receiver over the Rosemere Estates Property Owners Association

1 (“Association”), in Case No. A-18-775843-C, *Trudi Lee Lytle et al. v. Rosemere Estates Property*  
 2 *Owners’ Association* (“Receivership Action”).

3 The Court having considered the Motion, Joinders, Opposition, and Reply, together with the  
 4 Exhibits thereto, having heard the arguments of counsel, and with good cause appearing therefore, the  
 5 Court hereby grants the Motion and Joinders and enters the following Findings of Fact, Conclusions of  
 6 Law, and Order:

### 7 **FINDINGS OF FACT**

8 1. On April 26, 2017, this Court entered its Findings of Fact, Conclusions of Law, and Order  
 9 Granting the Boulden Trust and Lamothe Trust’s Motion for Partial Summary Judgment (“April 2017  
 10 Order”) against the Lytle Trust. On the Lytle Trust’s Motion for Reconsideration or, in the alternative,  
 11 Motion to Alter or Amend Judgment, on July 27, 2017, this Court entered its Order Granting Motion to  
 12 Alter or Amend Findings of Fact and Conclusions of Law (“July 2017 Order”) in favor of the Boulden  
 13 Trust and the Lamothe Trust on their Motion for Partial Summary Judgment.<sup>1</sup> The July 2017 Order is  
 14 hereby incorporated by reference.

15 2. In the July 2017 Order, the Court concluded, in part, that: the Association is a “limited  
 16 purpose association” as referenced in NRS 116.1201(2); as a limited purpose association, NRS 116.3117  
 17 is not applicable to the Association; as a result of the Rosemere Litigation I (referred to in the July 2017  
 18 Order as the Rosemere LPA Litigation) between the Lytle Trust and the Association, the Amended  
 19 CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were invalid,  
 20 have no force and effect, and were declared *void ab initio*; the Boulden Trust and Lamothe Trust were  
 21 not parties to the Rosemere Litigation I; the Boulden Trust and Lamothe Trust were not “losing parties”  
 22 in the Rosemere Litigation I per Section 25 of the Original CC&Rs; the Final Judgment in the Rosemere  
 23 Litigation I against the Association in favor of the Lytle Trust is not against, and is not an obligation of,  
 24  
 25

---

26 <sup>1</sup> The April 2017 Order included an order that the Lytle Trust had slandered title. The Court  
 27 subsequently determined that it had not made findings of fact or conclusions of law on this issue and  
 28 amended accordingly by entering the July 2017 Order without any order on the slander of title claim.  
 The slander of title claim was later dismissed by stipulation between the parties. *See* Notice of Entry of  
 Stipulation and Order to Dismiss All Remaining Claims Without Prejudice filed on January 14, 2019.

1 the Boulden Trust and Lamothe Trust; and the Final Judgment against the Association in the Rosemere  
2 Litigation I is not an obligation or debt owed by the Boulden Trust and Lamothe Trust.

3 3. The July 2017 Order also included the following permanent injunction at page 7:

4 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Defendants  
5 are permanently enjoined from recording and enforcing the Final Judgment from the Rosemere  
6 LPA Litigation or any abstracts related thereto against the Boulden Property or the Lamothe  
7 Property.

8 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Defendants  
9 are permanently enjoined from taking any action in the future against the Plaintiffs or their  
10 properties based upon the Rosemere LPA Litigation.

11 4. The Court ordered the Lytle Trust to expunge the Abstracts of Judgment that it had  
12 recorded against properties owned by the Boulden Trust and Lamothe Trust. The Lytle Trust released  
13 the Abstracts of Judgment, but immediately recorded two *lis pendens* against the Boulden Trust and  
14 Lamothe Trust properties. Thereafter, the Lytle Trust refused to voluntarily expunge the *lis pendens* and  
15 the Boulden Trust and Lamothe Trust were forced to file a Motion to Expunge *Lis Pendens*. This Court  
16 summarily granted the Motion on June 23, 2017 and the *lis pendens* were ordered stricken, but the Lytle  
17 Trust was not held in contempt.

18 5. The Lytle Trust appealed the July 2017 Order and the Nevada Supreme Court issued an  
19 Order of Affirmance on December 4, 2018 in Case No. 73039, *Trudi Lee Lytle v. Marjorie B. Boulden*  
20 (“First Order of Affirmance”).<sup>2</sup>

21 6. After entry of the July 2017 Order, the September Trust, Zobrist Trust, Sandoval Trust,  
22 and Gegens, which also own property within the Rosemere Subdivision, approached the Lytle Trust and  
23 requested that it release the Abstracts of Judgment recorded against their properties as well. After the  
24 Lytle Trust refused to release the Abstracts of Judgment as to their properties, the September Trust,  
25 Zobrist Trust, Sandoval Trust, and Gegens filed a Complaint against the Lytle Trust in Case No. A-17-  
26 765372-C, which was consolidated with this Case (Case No. A-16-747900-C) on February 21, 2018.

27 <sup>2</sup> The Boulden Trust sold its property to the Dismans on August 4, 2017. This Court subsequently held,  
28 in an Order entered on or about December 26, 2018, that the July 2017 Order likewise applied to the  
Rosemere Litigation II Judgment, which the Lytle Trust sought to enforce against the Lamothe Trust  
and the Dismans’ and their properties after entry of the July 2017 Order.

1           7. On May 24, 2018, this Court entered its Order Granting Motion for Summary Judgment  
2 or, in the Alternative, Motion for Judgment on the Pleadings and Denying Countermotion for Summary  
3 Judgment (“May 2018 Order”) in favor of the September Trust, Zobrist Trust, Sandoval Trust, and  
4 Gegens and against the Lytle Trust. The May 2018 Order is hereby incorporated by reference.

5           8. In the May 2018 Order, the Court concluded, in part, that: the Association is a “limited  
6 purpose association” as referenced in NRS 116.1201(2); as a limited purpose association, NRS 116.3117,  
7 the statute upon which the Lytle Trust relied to record the Abstracts of Judgment, is not applicable to the  
8 Association; as a result of the Rosemere Litigation I between the Lytle Trust and the Association, the  
9 Amended CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were  
10 invalid, have no force and effect, and were declared *void ab initio*; the September Trust, Zobrist Trust,  
11 Sandoval Trust, and Gegens were not parties to the Rosemere Litigation I, Rosemere Litigation II, or  
12 Rosemere Litigation III; the September Trust, Zobrist Trust, Sandoval Trust, and Gegens were not  
13 “losing parties” in the Rosemere Litigation I, Rosemere Litigation II, or Rosemere Litigation III per  
14 Section 25 of the Original CC&Rs; the Judgments issued in the Rosemere Litigation I, Rosemere  
15 Litigation II, or Rosemere Litigation III (collectively the “Rosemere Judgments”) against the Association  
16 in favor of the Lytle Trust are not against, and are not an obligation of, the September Trust, Zobrist  
17 Trust, Sandoval Trust, or Gegens to the Lytle Trust; and the Rosemere Judgments against the Association  
18 are not an obligation or debt owed by the September Trust, Zobrist Trust, Sandoval Trust, or Gegens to  
19 the Lytle Trust.

20           9. The May 2018 Order, at page 10, lines 10-19, contained the following permanent  
21 injunction:

22           IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust  
23 is permanently enjoined from recording and enforcing the Judgments obtained from the  
24 Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other  
judgments obtained against the Association, against the September Property, Zobrist Property,  
Sandoval Property or Gegen Property.

25           IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust  
26 is permanently enjoined from taking any action in the future directly against the Plaintiffs or  
27 their properties based upon the Rosemere Litigation I, Rosemere Litigation II or Rosemere  
28 Litigation III.

10. On June 19, 2018, the Lytle Trust appealed the May 2018 Order to the Nevada Supreme Court, Case No. 76198, *Trudi Lee Lytle v. September Trust, Dated March 23, 1972*. This appeal was consolidated with the Lytle Trust's subsequent appeal of an award of attorney's fees and costs in favor of the September Trust, Zobrist Trust, Sandoval Trust, and Gegens under NRS 18.010(2)(b), Case No. 77007. The Supreme Court entered its Order of Affirmance affirming the May 2018 Order and subsequent fees order on March 2, 2020 ("Second Order of Affirmance").

11. On June 8, 2018, the Lytle Trust filed a new action, Case No. A-18-775843-C, *Trudi Lee Lytle et al. v. Rosemere Estates Property Owners' Association* ("Receivership Action"), asserting claims against the Association for (a) Declaratory Judgment, and (b) Breach of Contract/Easement Agreement. The prayer for relief in the Receivership Action sought:

a. an Order declaring that the Association must continue to operate as required by the CC&Rs and Chapters 82 and 116 of the Nevada Revised Statutes, which includes, but is not limited to: 1) maintaining the landscaping in the exterior wall planters; 2) maintaining the exterior perimeter and frontage; 3) maintaining the entrance gate; 4) maintaining the private drive and sewer system; 5) ensuring that homeowners are paying their assessments; 6) seeking collection activity against any homeowners that have failed to pay their assessments; 7) paying known creditors of the Association; 8) specially assessing the homeowners to ensure that enough proceeds exist within the HOA funds to pay all known creditors assessing; and 9) any other activity required under Nevada law.

b. specific performance requiring the Association to comply with the CC&Rs, as well as other Nevada law, with respect to the Association's maintenance and day-to-day activities;

c. injunctive relief preventing the Association from violating the terms of the CC&RS, as well as other Nevada law, moving forward;

d. appointment of a receiver to handle the maintenance obligations and day-to-day activities, including the financial activities regarding assessments and creditors, until a duly constituted board may be instituted and power transitioned thereto; and

e. reasonable attorneys' fees, costs of suit and litigation, and such other and further relief as the Court deems just and proper

12. The Complaint in the Receivership Action alleges that the Association is not functioning, that the common elements of the community are not being maintained, and that “the Association has not paid known creditors of the Association, which includes, but is not limited to, the annual dues to the Nevada Secretary of State or the Nevada Department of Real Estate or the Lytles, which hold multiple judgments against the Association.” Complaint at ¶ 21.

13. In a Renewed Application for Appointment of Receiver filed by the Lytle Trust on October 24, 2019 (“Application”) in the Receivership Action, the Lytle Trust asserts that one reason for a Receiver over the Association was due to the Association’s refusal to pay the Rosemere Judgments, including its refusal to assess Association members, including the Plaintiffs, so the Association could pay the Rosemere Judgments. Application at 3:2-4, 5:17-18 (“Additional grounds exist because the Association is refusing to pay and refusing to assess Association members related to various monetary judgments awarded to the Lytles against the Association”), 13:19-28 (“A receiver may be appointed...[a]fter judgment, to carry the judgment into effect” (quoting NRS 32.010(3))), 14:1-2, 16-28 (“the Lytle Trust obtained judgments against the Association and a Receiver is needed to carry those judgments into effect”), 15:20-25 (“the Association has a duty...to pay its debts, including the Judgments obtained by the Lytle Trust”), 16:17-22 (“the Association is without any governing body to assess the homeowners and pay the judgments”).

14. The Lytle Trust disclosed to the judge in the Receivership Action (the “Receivership Court”) that the Amended CC&Rs had been judicially declared *void ab initio* and of no force or effect. *Id.* at 8:11-12 (the District “Court determined that the Amended CC&Rs were not properly adopted or recorded, that the Amended CC&Rs are invalid, and that the Amended CC&Rs have no force or effect”); 8 at n.3 (“Note, Rosemere 2 Litigation commenced more than six years *before* the Court in Rosemere 1 Litigation ruled that the Amended CC&Rs were invalid.”) (emphasis in original); 9:13-17 (“In granting the Lytle Trust’s Motion for Attorneys’ Fees, the district court in the Rosemere 1 and Rosemere 2 Litigations . . . held that the Lytle Trust could recover attorneys’ fees under the Amended CC&Rs because

1 that document, while declared *void ab initio* by the district court, was in effect and enforced by the  
2 Association against the Lytle Trust at all times during the underlying litigation.”).

3 15. However, The Lytle Trust further argued in the Application that the Amended CC&Rs  
4 provide authority for a receiver to make special assessments on the Plaintiffs’ and other owners’  
5 properties to collect funds to pay the Rosemere Judgments. *Id.* at 11:4-28, 13:1-17, 17:1-9. The Lytle  
6 Trust’s Application included a section heading in its Statement of Fact section titled “The Amended  
7 CC&Rs Grant the Association Authority to Assess Each Unit for Payment of Judgments Against the  
8 Association.” *Id.* at 11:4-5. The Lytle Trust also represented that “the District Court already ruled that  
9 the Association is liable for attorneys’ fees, costs and damages pursuant to the Amended CC&Rs, which  
10 provide the Association with the ability to specially assess each property (unit) for the costs of the  
11 judgments. Amended CC&Rs ¶ 10.11, Exhibit 16.” *Id.* at 17:6-9.

12 16. The Lytle Trust did not inform the Receivership Court about this Case, the July 2017 Order,  
13 May 2018 Order, or the Orders of Affirmance.<sup>3</sup> The Lytle Trust did not inform the Receivership Court  
14 that this Court had issued permanent injunctions against the Lytle Trust relating to enforcement of the  
15 Rosemere Judgments against the Plaintiffs, the Boulden Trust, the Lamothe Trust, the Dismans, or their  
16 properties.

17 17. On December 18, 2019, based on the Lytle Trust’s Application, the Receivership Court  
18 entered an Order Appointing a Receiver of Defendant Rosemere Property Owners Association (“Order  
19 Appointing Receiver”). The Order Appointing Receiver, drafted by the Lytle Trust, directs the Receiver  
20 to “[i]ssue and collect a special assessment upon all owners within the Association to satisfy the Lytle  
21 Trust’s judgments against the Association.” Order Appointing Receiver at 2:19-20. It further empowers  
22 the Receiver with “the authority to assess all Association unit owners to pay for any operation costs or  
23 to pay for judgments against the Association. If an Association member does not pay an assessment then  
24 the Receiver may proceed to foreclose on said member’s ownership interest in the property.” *Id.* at 6:4-  
25 7.

26  
27 <sup>3</sup> The Court notes that the Second Order of Affirmance was issued after entry of the Order Appointing  
28 Receiver and the Lytle Trust could not have informed the Receivership Court of it prior to entry of the  
Order Appointing Receiver.

18. On or around January 22, 2020, the Plaintiffs and the Dismans<sup>4</sup> each received a letter from Kevin Singer of Receivership Specialists regarding the appointment of Mr. Singer as the Receiver in the Receivership Action (“Receiver Letter”). In the Receiver Letter, Mr. Singer states that “[t]he appointment of the receivership is predicated on judgments against the HOA in the approximate amount of \$1,481,822 by the Lytle family (“the Plaintiff”).... These judgments need to be paid and the Court agreed with the Plaintiff by appointing a Receiver to facilitate the satisfying of the judgments.... We would like to meet with title holding members of the HOA...[to] share three ideas we have to pay these judgments.”

19. On January 29, 2020, counsel for Plaintiffs sent a letter to the Receiver, with a copy to counsel for the Lytle Trust, notifying the Receiver that the Orders and Permanent Injunctions issued in this Case prevent further effort to collect the Rosemere Judgments from the Plaintiffs or other property owners. The Plaintiffs expressed their belief this effort to assess the property owners to pay the Rosemere Judgments violated this Court’s Orders and demanded that the Receiver cease and desist.

20. On March 4, 2020, the Plaintiffs filed the instant Motion informing the Court about the Lytle Trust’s actions and seeking sanctions for violation of this Court’s May 2018 Order. The Boulden Trust and Lamothe Trust filed a Joinder to the Motion on March 5, 2020.<sup>5</sup> The Dismans filed a Joinder to the Motion on March 6, 2020.

21. The Association has never been a party to this Case.

### **CONCLUSIONS OF LAW**

1. This case has a history, such as the filing of the *lis pendens* against the Boulden Trust and Lamothe Trust properties after the Court had ordered the expungement of the Abstracts of Judgment and continued enforcement of the Abstracts of Judgment against the September Trust, Zobrist Trust, Sandoval Trust, and Gegens’ properties after entry of the July 2017 Order, that demonstrates that the Lytle Trust does not respect this Court’s Orders.

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<sup>4</sup> At the time, the Boulden Trust and Lamothe Trust no longer held title to any property within the Rosemere Subdivision, having sold their properties on August 4, 2017, and May 1, 2019, respectively.

<sup>5</sup> After the hearing on the Motion but prior to entry of this Order, the Boulden Trust and the Lamothe Trust withdrew their Joinders pursuant to a settlement with the Lytle Trust. Therefore, the Boulden Trust and Lamothe Trust are no longer considered movants for purposes of the relief granted herein.

2. This Court has inherent power to enforce its decrees, orders and judgments. A party is required to adhere to court orders, even disagreeable or erroneous orders, until terminated or overturned.

3. The proper course of action if a party disagrees with a Court order is to appeal.

4. The May 2018 Order must be obeyed by the Lytle Trust.

5. Each paragraph, each finding of fact, and each conclusion of law in the May 2018 Order must be given its plain meaning, and each paragraph of that Order's permanent injunction must be obeyed by the Lytle Trust.

6. As a result of the Findings of Fact and Conclusions of Law in the May 2018 Order, there were specific orders which are not mutually exclusive. Each issue ordered by the Court should be given its meaning, and they are not in conflict.

7. The Court's factual determinations and conclusions of law culminated with the permanent injunction language starting at Page 10, Line 10 of the May 2018 Order, which stated:

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from recording and enforcing the Judgments obtained from the Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other judgments obtained against the Association, against the September Property, Zobrist Property, Sandoval Property or Gegen Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from taking any action in the future directly against the Plaintiffs or their properties based upon the Rosemere Litigation I, Rosemere Litigation II or Rosemere Litigation III.

8. These paragraphs are not mutually exclusive and each must be obeyed by the Lytle Trust.

9. The Findings of Fact, Conclusions of Law, and Orders contained in the May 2018 Order, including the permanent injunctions, are clear, specific and unambiguous as to what the parties could and could not do in this case. Further, the terms of the permanent injunction are specific and definite so that the Lytle Trust could readily know exactly what duties or obligations were imposed on it.

10. The May 2018 Order's permanent injunction clearly precluded the Lytle Trust from doing anything as it relates to enforcing and recording the Rosemere Judgments against the Plaintiffs and Dismans or their properties.

11. Indeed, the Lytle Trust has no judgment creditor rights to try to collect the Rosemere Judgments from the Plaintiffs or Dismans in any way, shape, or form.

19. In addition, the court may award “reasonable expenses, including, without limitation, attorney’s fees, incurred by the party as a result of the contempt.” NRS 22.100(3).

Based upon the Findings of Fact and Conclusions of Law above, and good cause appearing therefore,

1           **IT IS HEREBY ORDERED ADJUDGED AND DECREED** that Plaintiffs' Motion for Order  
2 to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders, as  
3 well as the Joinders thereto filed by the Boulden Trust, the Lamothe Trust, and the Dismans, are  
4 GRANTED.

5           **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust  
6 violated the May 2018 Order.

7           **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust  
8 is in contempt of the May 2018 Order.

9           **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust  
10 shall pay a \$500 penalty to each movant for violation of the May 2018 Order; specifically, \$500 payable  
11 to the September Trust, \$500 payable to the Zobrist Trust, \$500 payable to the Sandoval Trust, \$500  
12 payable to the Gegens, and \$500 payable to the Dismans.

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1 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the September  
 2 Trust, Zobrist Trust, Sandoval Trust, Gegens, and Dismans, may file applications for their reasonable  
 3 expenses, including, without limitation, attorney's fees, incurred by the party as a result of the contempt.  
 4 The Court will consider such applications on the merits.

5 **IT IS SO ORDERED.**

6 Dated this 22 day of May, 2020.

7   
 8 DISTRICT COURT JUDGE CG

9 **Submitted by:**

10 **CHRISTENSEN JAMES & MARTIN**

11 /s/ Wesley J. Smith

12 Wesley J. Smith, Esq.  
 13 Nevada Bar No. 11871  
 14 Laura J. Wolff, Esq.  
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 16 7440 W. Sahara Ave.  
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 18 *Attorneys for Plaintiffs September Trust,*  
 19 *Zobrist Trust, Sandoval Trust, and*  
 20 *Dennis & Julie Gegen*

**Approved as to Form and Content by:**

**FIDELITY NATIONAL LAW GROUP**

/s/ Christina H. Wang

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16 **Reviewed by Not Approved by:**

17 **LEWIS ROCA ROTHBERGER CHRISTIE**  
 18 **LLP**

19 Reviewed But Not Approved

20 DAN R. WAITE, ESQ.  
 21 Nevada Bar 4078  
 22 3993 Howard Hughes Parkway, Suite 600  
 23 Las Vegas, Nevada 89169  
 24 *Attorneys for Lytle Trust*

**RE: Case No. A-16-747800-C - Boulden v. Lytle - ORDR - Proposed Order Granting Plaintiffs' Motion for Order to Show Cause**

Wang, Christina <Christina.Wang@fnf.com>

Mon 5/18/2020 9:52 AM

To: Wesley Smith <wes@cjmlv.com>

Cc: Engelman, Lace <Lace.Engelman@fnf.com>

Approved – thanks.

Christina H. Wang

Litigation Counsel

Fidelity National Law Group

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**PLEASE NOTE THAT OUR OFFICE HAS MOVED TO THE ABOVE ADDRESS.**

*The Law Division of Alamo Title Insurance, Chicago Title Insurance Co., Commonwealth Land Title Insurance Co., Fidelity National Title Insurance Co., and Fidelity National Title Group, Inc.*

*THIS ELECTRONIC MAIL MESSAGE AND ANY ATTACHMENTS ARE INTENDED ONLY FOR THE USE OF THE ADDRESSEE(S) NAMED ABOVE AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU ARE NOT AN INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS E-MAIL TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU RECEIVED THIS E-MAIL MESSAGE IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER BY REPLYING TO THIS MESSAGE OR BY TELEPHONE. THANK YOU.*

---

**From:** Wesley Smith <wes@cjmlv.com>

**Sent:** Monday, May 18, 2020 9:45 AM

**To:** Wang, Christina <Christina.Wang@fnf.com>

**Cc:** Engelman, Lace <Lace.Engelman@fnf.com>

**Subject:** Re: Case No. A-16-747800-C - Boulden v. Lytle - ORDR - Proposed Order Granting Plaintiffs' Motion for Order to Show Cause

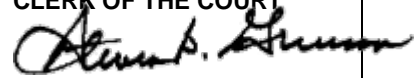
**IMPORTANT NOTICE - This message sourced from an external mail server outside of the Company.**

Christina,

Per our discussion, can you please approve this version which adds the date to footnote 2?

Wes Smith

Christensen James & Martin



**ORDR**  
**CHRISTENSEN JAMES & MARTIN**  
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*Attorneys for September Trust, Zobrist Trust, Sandoval Trust  
and Dennis & Julie Gegen*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARJORIE B. BOULDEN, TRUSTEE OF  
THE MARJORIE B. BOULDEN TRUST,  
LINDA LAMOTHE AND JACQUES  
LAMOTHE, TRUSTEES OF THE  
JACQUES & LINDA LAMOTHE LIVING  
TRUST,

Plaintiffs,

vs.

TRUDI LEE LYTLE, JOHN ALLEN  
LYTLE, THE LYTLE TRUST, DOES I  
through X, and ROE CORPORATIONS I  
through X,

Defendants.

Case No.: A-16-747800-C  
Dept. No.: XVI

**ORDER GRANTING PLAINTIFFS'  
MOTION FOR ORDER TO SHOW  
CAUSE WHY THE LYTLE TRUST  
SHOULD NOT BE HELD IN  
CONTEMPT FOR VIOLATION OF  
COURT ORDERS**

Date: April 22, 2020  
Time: 9:00 a.m.

SEPTEMBER TRUST, DATED MARCH 23,  
1972; GERRY R. ZOBRIST AND JOLIN G.  
ZOBRIST, AS TRUSTEES OF THE GERRY  
R. ZOBRIST AND JOLIN G. ZOBRIST  
FAMILY TRUST; RAYNALDO G.  
SANDOVAL AND JULIE MARIE  
SANDOVAL GEGEN, AS TRUSTEES OF  
THE RAYNALDO G. AND EVELYN A.  
SANDOVAL JOINT LIVING AND

Case No.: A-17-765372-C  
Dept. No.: XVI

CONSOLIDATED

1 DEVOLUTION TRUST DATED MAY 27,  
2 1992; and DENNIS A. GEGEN AND JULIE  
3 S. GEGEN, HUSBAND AND WIFE, AS  
4 JOINT TENANTS,

5 Plaintiffs,

6 vs.

7 TRUDI LEE LYTLE AND JOHN ALLEN  
8 LYTLE, AS TRUSTEES OF THE LYTLE  
9 TRUST; JOHN DOES I through V; and ROE  
10 ENTITIES I through V, inclusive,

11 Defendants.

12 Presently before the Court is Plaintiffs' Motion for Order to Show Cause Why the Lytle Trust  
13 Should Not Be Held in Contempt for Violation of Court Orders ("Motion") filed by the September Trust,  
14 dated March 23, 1972 ("September Trust"), Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the  
15 Gerry R. Zobrist and Jolin G. Zobrist Family Trust ("Zobrist Trust"), Raynaldo G. Sandoval and Julie  
16 Marie Sandoval Gegen, as Trustees of the Raynaldo G. and Evelyn A. Sandoval Joint Living and  
17 Devolution Trust dated May 27, 1992 ("Sandoval Trust"), and Dennis A. Gegen and Julie S. Gegen,  
18 Husband and Wife, as Joint Tenants ("Dennis & Julie Gegen") (collectively the "Plaintiffs"), the Joinders  
19 filed by Marjorie B. Boulden, Trustee of the Marjorie B. Boulden Trust, amended and restated dated July  
20 17, 1996 ("Boulden Trust") and Linda Lamothe and Jacques Lamothe, Trustees of the Jacques and Linda  
21 Lamothe Living Trust ("Lamothe Trust") and Robert Z. Disman and Yvonne A. Disman (the "Dismans"),  
22 and the Opposition and Reply thereto, which came on for hearing on April 22, 2020 at 9:00 a.m. in  
23 Department XVI of the Eighth Judicial District Court, Clark County, Nevada.

24 Wesley J. Smith, Esq. of Christensen James & Martin, Chtd. appeared on behalf of the Plaintiffs.  
25 Daniel T. Foley, Esq. of Foley & Oakes, PC appeared on behalf of the Boulden Trust and Lamothe Trust.  
26 Christina H. Wang, Esq. of Fidelity National Law Group appeared on behalf of the Dismans. Dan R.  
27 Waite, Esq. of Lewis Roca Rothgerber Christie LLP and Richard Haskin, Esq. of Gibbs Giden Locher  
28 Turner Senet & Wittbrodt LLP appeared on behalf of Trudi Lee Lytle and John Allen Lytle, as Trustees  
of the Lytle Trust ("Lytle Trust"). Patricia Lee, Esq. of Hutchison & Steffen was present on behalf of  
Kevin Singer, court appointed Receiver over the Rosemere Estates Property Owners Association

1 (“Association”), in Case No. A-18-775843-C, *Trudi Lee Lytle et al. v. Rosemere Estates Property*  
 2 *Owners’ Association* (“Receivership Action”).

3 The Court having considered the Motion, Joinders, Opposition, and Reply, together with the  
 4 Exhibits thereto, having heard the arguments of counsel, and with good cause appearing therefore, the  
 5 Court hereby grants the Motion and Joinders and enters the following Findings of Fact, Conclusions of  
 6 Law, and Order:

### 7 **FINDINGS OF FACT**

8 1. On April 26, 2017, this Court entered its Findings of Fact, Conclusions of Law, and Order  
 9 Granting the Boulden Trust and Lamothe Trust’s Motion for Partial Summary Judgment (“April 2017  
 10 Order”) against the Lytle Trust. On the Lytle Trust’s Motion for Reconsideration or, in the alternative,  
 11 Motion to Alter or Amend Judgment, on July 27, 2017, this Court entered its Order Granting Motion to  
 12 Alter or Amend Findings of Fact and Conclusions of Law (“July 2017 Order”) in favor of the Boulden  
 13 Trust and the Lamothe Trust on their Motion for Partial Summary Judgment.<sup>1</sup> The July 2017 Order is  
 14 hereby incorporated by reference.

15 2. In the July 2017 Order, the Court concluded, in part, that: the Association is a “limited  
 16 purpose association” as referenced in NRS 116.1201(2); as a limited purpose association, NRS 116.3117  
 17 is not applicable to the Association; as a result of the Rosemere Litigation I (referred to in the July 2017  
 18 Order as the Rosemere LPA Litigation) between the Lytle Trust and the Association, the Amended  
 19 CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were invalid,  
 20 have no force and effect, and were declared *void ab initio*; the Boulden Trust and Lamothe Trust were  
 21 not parties to the Rosemere Litigation I; the Boulden Trust and Lamothe Trust were not “losing parties”  
 22 in the Rosemere Litigation I per Section 25 of the Original CC&Rs; the Final Judgment in the Rosemere  
 23 Litigation I against the Association in favor of the Lytle Trust is not against, and is not an obligation of,  
 24  
 25

---

26 <sup>1</sup> The April 2017 Order included an order that the Lytle Trust had slandered title. The Court  
 27 subsequently determined that it had not made findings of fact or conclusions of law on this issue and  
 28 amended accordingly by entering the July 2017 Order without any order on the slander of title claim.  
 The slander of title claim was later dismissed by stipulation between the parties. *See* Notice of Entry of  
 Stipulation and Order to Dismiss All Remaining Claims Without Prejudice filed on January 14, 2019.

1 the Boulden Trust and Lamothe Trust; and the Final Judgment against the Association in the Rosemere  
2 Litigation I is not an obligation or debt owed by the Boulden Trust and Lamothe Trust.

3 3. The July 2017 Order also included the following permanent injunction at page 7:

4 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Defendants  
5 are permanently enjoined from recording and enforcing the Final Judgment from the Rosemere  
6 LPA Litigation or any abstracts related thereto against the Boulden Property or the Lamothe  
7 Property.

8 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Defendants  
9 are permanently enjoined from taking any action in the future against the Plaintiffs or their  
10 properties based upon the Rosemere LPA Litigation.

11 4. The Court ordered the Lytle Trust to expunge the Abstracts of Judgment that it had  
12 recorded against properties owned by the Boulden Trust and Lamothe Trust. The Lytle Trust released  
13 the Abstracts of Judgment, but immediately recorded two *lis pendens* against the Boulden Trust and  
14 Lamothe Trust properties. Thereafter, the Lytle Trust refused to voluntarily expunge the *lis pendens* and  
15 the Boulden Trust and Lamothe Trust were forced to file a Motion to Expunge *Lis Pendens*. This Court  
16 summarily granted the Motion on June 23, 2017 and the *lis pendens* were ordered stricken, but the Lytle  
17 Trust was not held in contempt.

18 5. The Lytle Trust appealed the July 2017 Order and the Nevada Supreme Court issued an  
19 Order of Affirmance on December 4, 2018 in Case No. 73039, *Trudi Lee Lytle v. Marjorie B. Boulden*  
20 (“First Order of Affirmance”).<sup>2</sup>

21 6. After entry of the July 2017 Order, the September Trust, Zobrist Trust, Sandoval Trust,  
22 and Gegens, which also own property within the Rosemere Subdivision, approached the Lytle Trust and  
23 requested that it release the Abstracts of Judgment recorded against their properties as well. After the  
24 Lytle Trust refused to release the Abstracts of Judgment as to their properties, the September Trust,  
25 Zobrist Trust, Sandoval Trust, and Gegens filed a Complaint against the Lytle Trust in Case No. A-17-  
26 765372-C, which was consolidated with this Case (Case No. A-16-747900-C) on February 21, 2018.

27 <sup>2</sup> The Boulden Trust sold its property to the Dismans on August 4, 2017. This Court subsequently held,  
28 in an Order entered on or about December 26, 2018, that the July 2017 Order likewise applied to the  
Rosemere Litigation II Judgment, which the Lytle Trust sought to enforce against the Lamothe Trust  
and the Dismans’ and their properties after entry of the July 2017 Order.

7. On May 24, 2018, this Court entered its Order Granting Motion for Summary Judgment or, in the Alternative, Motion for Judgment on the Pleadings and Denying Countermotion for Summary Judgment (“May 2018 Order”) in favor of the September Trust, Zobrist Trust, Sandoval Trust, and Gegens and against the Lytle Trust. The May 2018 Order is hereby incorporated by reference.

8. In the May 2018 Order, the Court concluded, in part, that: the Association is a “limited purpose association” as referenced in NRS 116.1201(2); as a limited purpose association, NRS 116.3117, the statute upon which the Lytle Trust relied to record the Abstracts of Judgment, is not applicable to the Association; as a result of the Rosemere Litigation I between the Lytle Trust and the Association, the Amended CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were invalid, have no force and effect, and were declared *void ab initio*; the September Trust, Zobrist Trust, Sandoval Trust, and Gegens were not parties to the Rosemere Litigation I, Rosemere Litigation II, or Rosemere Litigation III; the September Trust, Zobrist Trust, Sandoval Trust, and Gegens were not “losing parties” in the Rosemere Litigation I, Rosemere Litigation II, or Rosemere Litigation III per Section 25 of the Original CC&Rs; the Judgments issued in the Rosemere Litigation I, Rosemere Litigation II, or Rosemere Litigation III (collectively the “Rosemere Judgments”) against the Association in favor of the Lytle Trust are not against, and are not an obligation of, the September Trust, Zobrist Trust, Sandoval Trust, or Gegens to the Lytle Trust; and the Rosemere Judgments against the Association are not an obligation or debt owed by the September Trust, Zobrist Trust, Sandoval Trust, or Gegens to the Lytle Trust.

9. The May 2018 Order, at page 10, lines 10-19, contained the following permanent injunction:

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from recording and enforcing the Judgments obtained from the Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other judgments obtained against the Association, against the September Property, Zobrist Property, Sandoval Property or Gegen Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from taking any action in the future directly against the Plaintiffs or their properties based upon the Rosemere Litigation I, Rosemere Litigation II or Rosemere Litigation III.

1           10. On June 19, 2018, the Lytle Trust appealed the May 2018 Order to the Nevada Supreme  
2 Court, Case No. 76198, *Trudi Lee Lytle v. September Trust, Dated March 23, 1972*. This appeal was  
3 consolidated with the Lytle Trust's subsequent appeal of an award of attorney's fees and costs in favor  
4 of the September Trust, Zobrist Trust, Sandoval Trust, and Gegens under NRS 18.010(2)(b), Case No.  
5 77007. The Supreme Court entered its Order of Affirmance affirming the May 2018 Order and  
6 subsequent fees order on March 2, 2020 ("Second Order of Affirmance").

7           11. On June 8, 2018, the Lytle Trust filed a new action, Case No. A-18-775843-C, *Trudi Lee*  
8 *Lytle et al. v. Rosemere Estates Property Owners' Association* ("Receivership Action"), asserting claims  
9 against the Association for (a) Declaratory Judgment, and (b) Breach of Contract/Easement Agreement.  
10 The prayer for relief in the Receivership Action sought:

11           a. an Order declaring that the Association must continue to operate as required by the  
12 CC&Rs and Chapters 82 and 116 of the Nevada Revised Statutes, which includes, but is not limited  
13 to: 1) maintaining the landscaping in the exterior wall planters; 2) maintaining the exterior  
14 perimeter and frontage; 3) maintaining the entrance gate; 4) maintaining the private drive and  
15 sewer system; 5) ensuring that homeowners are paying their assessments; 6) seeking collection  
16 activity against any homeowners that have failed to pay their assessments; 7) paying known  
17 creditors of the Association; 8) specially assessing the homeowners to ensure that enough proceeds  
18 exist within the HOA funds to pay all known creditors assessing; and 9) any other activity required  
19 under Nevada law.

20           b. specific performance requiring the Association to comply with the CC&Rs, as well  
21 as other Nevada law, with respect to the Association's maintenance and day-to-day activities;

22           c. injunctive relief preventing the Association from violating the terms of the CC&RS,  
23 as well as other Nevada law, moving forward;

24           d. appointment of a receiver to handle the maintenance obligations and day-to-day  
25 activities, including the financial activities regarding assessments and creditors, until a duly  
26 constituted board may be instituted and power transitioned thereto; and  
27  
28

e. reasonable attorneys' fees, costs of suit and litigation, and such other and further relief as the Court deems just and proper

12. The Complaint in the Receivership Action alleges that the Association is not functioning, that the common elements of the community are not being maintained, and that “the Association has not paid known creditors of the Association, which includes, but is not limited to, the annual dues to the Nevada Secretary of State or the Nevada Department of Real Estate or the Lytles, which hold multiple judgments against the Association.” Complaint at ¶ 21.

13. In a Renewed Application for Appointment of Receiver filed by the Lytle Trust on October 24, 2019 (“Application”) in the Receivership Action, the Lytle Trust asserts that one reason for a Receiver over the Association was due to the Association’s refusal to pay the Rosemere Judgments, including its refusal to assess Association members, including the Plaintiffs, so the Association could pay the Rosemere Judgments. Application at 3:2-4, 5:17-18 (“Additional grounds exist because the Association is refusing to pay and refusing to assess Association members related to various monetary judgments awarded to the Lytles against the Association”), 13:19-28 (“A receiver may be appointed...[a]fter judgment, to carry the judgment into effect” (quoting NRS 32.010(3))), 14:1-2, 16-28 (“the Lytle Trust obtained judgments against the Association and a Receiver is needed to carry those judgments into effect”), 15:20-25 (“the Association has a duty...to pay its debts, including the Judgments obtained by the Lytle Trust”), 16:17-22 (“the Association is without any governing body to assess the homeowners and pay the judgments”).

14. The Lytle Trust disclosed to the judge in the Receivership Action (the “Receivership Court”) that the Amended CC&Rs had been judicially declared *void ab initio* and of no force or effect. *Id.* at 8:11-12 (the District “Court determined that the Amended CC&Rs were not properly adopted or recorded, that the Amended CC&Rs are invalid, and that the Amended CC&Rs have no force or effect”); 8 at n.3 (“Note, Rosemere 2 Litigation commenced more than six years *before* the Court in Rosemere 1 Litigation ruled that the Amended CC&Rs were invalid.”) (emphasis in original); 9:13-17 (“In granting the Lytle Trust’s Motion for Attorneys’ Fees, the district court in the Rosemere 1 and Rosemere 2 Litigations . . . held that the Lytle Trust could recover attorneys’ fees under the Amended CC&Rs because

1 that document, while declared *void ab initio* by the district court, was in effect and enforced by the  
2 Association against the Lytle Trust at all times during the underlying litigation.”).

3 15. However, The Lytle Trust further argued in the Application that the Amended CC&Rs  
4 provide authority for a receiver to make special assessments on the Plaintiffs’ and other owners’  
5 properties to collect funds to pay the Rosemere Judgments. *Id.* at 11:4-28, 13:1-17, 17:1-9. The Lytle  
6 Trust’s Application included a section heading in its Statement of Fact section titled “The Amended  
7 CC&Rs Grant the Association Authority to Assess Each Unit for Payment of Judgments Against the  
8 Association.” *Id.* at 11:4-5. The Lytle Trust also represented that “the District Court already ruled that  
9 the Association is liable for attorneys’ fees, costs and damages pursuant to the Amended CC&Rs, which  
10 provide the Association with the ability to specially assess each property (unit) for the costs of the  
11 judgments. Amended CC&Rs ¶ 10.11, Exhibit 16.” *Id.* at 17:6-9.

12 16. The Lytle Trust did not inform the Receivership Court about this Case, the July 2017 Order,  
13 May 2018 Order, or the Orders of Affirmance.<sup>3</sup> The Lytle Trust did not inform the Receivership Court  
14 that this Court had issued permanent injunctions against the Lytle Trust relating to enforcement of the  
15 Rosemere Judgments against the Plaintiffs, the Boulden Trust, the Lamothe Trust, the Dismans, or their  
16 properties.

17 17. On December 18, 2019, based on the Lytle Trust’s Application, the Receivership Court  
18 entered an Order Appointing a Receiver of Defendant Rosemere Property Owners Association (“Order  
19 Appointing Receiver”). The Order Appointing Receiver, drafted by the Lytle Trust, directs the Receiver  
20 to “[i]ssue and collect a special assessment upon all owners within the Association to satisfy the Lytle  
21 Trust’s judgments against the Association.” Order Appointing Receiver at 2:19-20. It further empowers  
22 the Receiver with “the authority to assess all Association unit owners to pay for any operation costs or  
23 to pay for judgments against the Association. If an Association member does not pay an assessment then  
24 the Receiver may proceed to foreclose on said member’s ownership interest in the property.” *Id.* at 6:4-  
25 7.

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27 <sup>3</sup> The Court notes that the Second Order of Affirmance was issued after entry of the Order Appointing  
28 Receiver and the Lytle Trust could not have informed the Receivership Court of it prior to entry of the  
Order Appointing Receiver.

18. On or around January 22, 2020, the Plaintiffs and the Dismans<sup>4</sup> each received a letter from Kevin Singer of Receivership Specialists regarding the appointment of Mr. Singer as the Receiver in the Receivership Action (“Receiver Letter”). In the Receiver Letter, Mr. Singer states that “[t]he appointment of the receivership is predicated on judgments against the HOA in the approximate amount of \$1,481,822 by the Lytle family (“the Plaintiff”).... These judgments need to be paid and the Court agreed with the Plaintiff by appointing a Receiver to facilitate the satisfying of the judgments.... We would like to meet with title holding members of the HOA...[to] share three ideas we have to pay these judgments.”

19. On January 29, 2020, counsel for Plaintiffs sent a letter to the Receiver, with a copy to counsel for the Lytle Trust, notifying the Receiver that the Orders and Permanent Injunctions issued in this Case prevent further effort to collect the Rosemere Judgments from the Plaintiffs or other property owners. The Plaintiffs expressed their belief this effort to assess the property owners to pay the Rosemere Judgments violated this Court’s Orders and demanded that the Receiver cease and desist.

20. On March 4, 2020, the Plaintiffs filed the instant Motion informing the Court about the Lytle Trust’s actions and seeking sanctions for violation of this Court’s May 2018 Order. The Boulden Trust and Lamothe Trust filed a Joinder to the Motion on March 5, 2020.<sup>5</sup> The Dismans filed a Joinder to the Motion on March 6, 2020.

21. The Association has never been a party to this Case.

### **CONCLUSIONS OF LAW**

1. This case has a history, such as the filing of the *lis pendens* against the Boulden Trust and Lamothe Trust properties after the Court had ordered the expungement of the Abstracts of Judgment and continued enforcement of the Abstracts of Judgment against the September Trust, Zobrist Trust, Sandoval Trust, and Gegens’ properties after entry of the July 2017 Order, that demonstrates that the Lytle Trust does not respect this Court’s Orders.

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<sup>4</sup> At the time, the Boulden Trust and Lamothe Trust no longer held title to any property within the Rosemere Subdivision, having sold their properties on August 4, 2017, and May 1, 2019, respectively.

<sup>5</sup> After the hearing on the Motion but prior to entry of this Order, the Boulden Trust and the Lamothe Trust withdrew their Joinders pursuant to a settlement with the Lytle Trust. Therefore, the Boulden Trust and Lamothe Trust are no longer considered movants for purposes of the relief granted herein.

1           2.     This Court has inherent power to enforce its decrees, orders and judgments. A party is  
2 required to adhere to court orders, even disagreeable or erroneous orders, until terminated or overturned.

3           3.     The proper course of action if a party disagrees with a Court order is to appeal.

4           4.     The May 2018 Order must be obeyed by the Lytle Trust.

5           5.     Each paragraph, each finding of fact, and each conclusion of law in the May 2018 Order  
6 must be given its plain meaning, and each paragraph of that Order's permanent injunction must be obeyed  
7 by the Lytle Trust.

8           6.     As a result of the Findings of Fact and Conclusions of Law in the May 2018 Order, there  
9 were specific orders which are not mutually exclusive. Each issue ordered by the Court should be given  
10 its meaning, and they are not in conflict.

11          7.     The Court's factual determinations and conclusions of law culminated with the permanent  
12 injunction language starting at Page 10, Line 10 of the May 2018 Order, which stated:

13           IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust  
14 is permanently enjoined from recording and enforcing the Judgments obtained from the  
15 Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other  
judgments obtained against the Association, against the September Property, Zobrist Property,  
Sandoval Property or Gegen Property.

16           IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust  
17 is permanently enjoined from taking any action in the future directly against the Plaintiffs or  
18 their properties based upon the Rosemere Litigation I, Rosemere Litigation II or Rosemere  
Litigation III.

19          8.     These paragraphs are not mutually exclusive and each must be obeyed by the Lytle Trust.

20          9.     The Findings of Fact, Conclusions of Law, and Orders contained in the May 2018 Order,  
21 including the permanent injunctions, are clear, specific and unambiguous as to what the parties could and  
22 could not do in this case. Further, the terms of the permanent injunction are specific and definite so that  
23 the Lytle Trust could readily know exactly what duties or obligations were imposed on it.

24          10.    The May 2018 Order's permanent injunction clearly precluded the Lytle Trust from doing  
25 anything as it relates to enforcing and recording the Rosemere Judgments against the Plaintiffs and  
26 Dismans or their properties.

27          11.    Indeed, the Lytle Trust has no judgment creditor rights to try to collect the Rosemere  
28 Judgments from the Plaintiffs or Dismans in any way, shape, or form.