

# IN THE SUPREME COURT OF THE STATE OF NEVADA

WESLEY RUSCH,  
Appellant(s),

vs.

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION,  
Respondent(s),

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Elizabeth A. Brown  
Clerk of Supreme Court

Case No: A-21-840526-C  
*Consolidated with A-20-826568-C*  
Docket No: 85821

# RECORD ON APPEAL VOLUME 3

**ATTORNEY FOR APPELLANT**  
WESLEY RUSCH, PROPER PERSON  
BOX 30907  
LAS VEGAS, NV 89173

**ATTORNEY FOR RESPONDENT**  
MARC S. CWIK, ESQ.  
6385 S. RAINBOW BLVD., STE 600  
LAS VEGAS, NV 89118

A-21-840526-C Wesley Rusch, Plaintiff(s) vs. Martin Condominium Unit Owners Association, Defendant(s)

**I N D E X**

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A-21-840526-C

Wesley Rusch, Plaintiff(s)

vs.

Martin Condominium Unit Owners Association,  
Defendant(s)

I N D E X

## **violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

### **Notice of Delinquent Assessments**

Before starting the foreclosure, the **HOA must mail a notice of delinquent assessment to the homeowner**, which states:

**the amount of the assessments and other sums that are due**  
a description of the unit against which the lien is imposed, and  
**the name of the record owner of the unit.** (Nev. Rev. Stat. § 116.31162).

NRS 116.31162 specifically provides that: Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the **association may foreclose its lien by sale after all of the following occur:**

- (a) **The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due** *The Martin Failed to do this.* in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.
- (b) **Not less than 30 days after mailing the notice of delinquent assessment** pursuant to paragraph (a), the association or other person conducting the sale **has executed and caused to be recorded, with the county recorder of the county** *The Martin failed to do this* in which the common-interest



community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

- (1) Describe the deficiency in payment.
- (2) State the name and address of the person authorized by the association to enforce the lien by sale.
- (3) Contain, in 14-point bold type, the following warning:

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE**

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

- (a) The date on which the notice of default is recorded; or
  - (b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,
- whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608)

### **The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**Therefore Defendant's motions and orders must be stricken and judgment entered in favor of Plaintiffs**

**It is about time for the court to conclude this action and award Plaintiffs the**

**compensation they deserve for the wrongful actions of the Martin**

**Respectfully submitted**

**/S/ Wesley Rusch**

**Wesley Rusch**

Declaration of Wesley A Rusch

Declarant has personal knowledge of the following and being deposed and sworn states under penalty of perjury under the Laws of the State of Nevada, as follow:

1. I am over the age of Eighteen.
2. That myself and Oliber B Longboy, are the two individuals who purchased the real property commonly known as 4471 Dean Martin, Apt 2206, Las Vegas NV 89103.
3. We own no other property and have no other place to live.
4. Hollyvale Rental Holdings, LLC is based on information and belief an entity that speculates in real estate. They are not a real person and do no need a place to live.
5. On the other hand Rusch and Longboy are two individuals who are two real people who need a place to live.
6. Neither Rusch or Longboy received any notice of any proposed or ported auction of their property for August 10, 2017. Redrock as agent for the Martin violated Nevada law by selling their property without complying with Nevada law.
7. Our real property was sold at auction purportedly for delinquent HOA fees on August 10, 2017. When in fact the Martin owed Rusch more than the HOA fees.

On on about June 29 a sprinkler pipe broke in the unit at the end of the 22<sup>nd</sup> floor causing water to flow down the hallway and into Rusch's unit.. According to Nigro there was water in Rusch's walls that had to be replaced. The Martin failed to mitigate the damage by not opening the sliding glass door to allow the water to flow down the side of the building instead of down the hall. The Martin also let the water flow for several hours before turning off the water. Had the Martin done either of the foregoing Rusch's Condo would not have suffered damage. As a consequence, Rusch was required to relocate for nearly four months while Nigro repaired his unit. Nigro did not even complete the job and Rusch had to hire his own contractor to complete the job. Rusch incurred expenses in excess of \$25,000 as a result thereof. Rusch therefore claims that amount as a an offset to his HOA fess and therefore does not own the Martin any money and in fact the Martin owes Rusch money.

8. That neither myself nor Oliver B Longboy had received any notice of the impending HOA sale of our real property.

September 1 2022  
FURTHER DECLARANT SAVETH NAUGHT  
/S/ Wesley Rusch  
WESLEY A RUSCH

There is no basis to award The Martin Summary Judgment Rather Plaintiffs should be awarded summary judgment as to the valid claims have filed against the Martin for which they have offered no defense

**WESLEY RUSCH IS NOT A VEXATIOUS LITIGANT**

In Nevada, a “vexatious litigant” has been defined as one “who repeatedly files **frivolous lawsuits.**” See *Peck v. Crouser*, 129 Nev. 120, 122, 295 P.3d 586, 587 (2013) (citing Black’s Law Dictionary 952 (8th ed. 2004)).

The Subject Property was foreclosed upon by Martin CUOA and sold at a foreclosure sale conducted by RRFS *Without the legally required notice* on behalf of Martin CUOA.

Plaintiff has file a complaint with the following causes of actions which is not frivolous

**Sale of Rusch condo is was in violation of the Martins CCRs and Nevada Law**

Plaintiff is seeking **damages** from the following events

**First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. the Martin was informed of the water pipe busting shortly after it happened. The **Martin failed to either tum off the water escaping from the busted water pipe or failed to irrigate the water to another location** to prevent damage to the Subject Property and its neighboring units. That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to**

**vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

## **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

### **The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**It is about time to resolve the case in Plaintiff's favor as the Martin has no defense to any of their claims listed in the complaint and therefore PLAINTIFF MUST BE AWARDED JUDGMENT**

Respectfully Submitted

/S/ Wesley Rusch  
Wesley Rusch

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10/24/2022 7:29 PM  
Steven D. Grierson  
CLERK OF THE COURT  
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1/11/2022 7:54 PM  
Steven D. Grierson

Oliver  
Longboy in  
Pro Se Wesley  
Rusch in Pro  
Se BOX  
30907  
Las Vegas NV 89173  
Email [dirofcomp@yahoo.com](mailto:dirofcomp@yahoo.com)

Plaintiffs

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

WESLEY RUSCH, an individual,  
and OLIVER LONGBOY, an individual,

Case No. A-21 -  
840526 - CC Case No. A-  
21-840526 - C

Case No. A-21 -  
840526 - CC Case No. A-  
21-840526 - C

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Plaintiffs,  
Plaintiffs,  
Plaintiffs,  
vs.

**APPLICATION FOR  
DEFAULT JUDGMENT**

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic

Organizations I through X,

}  
) non-profit corporation; DOE Individuals I ) through X  
) Defendants. )

Plaintiffs Wesley Rusch and Oliver Longboy (hereafter “Rusch”) have filed a civil action against The Martin Condominium Unit Owners Association (hereafter The Martin”) for damages as the result of their wrongful actions.

Rusch have been severely damaged by the actions of The Martin. First the Flood then the wrongful eviction without notice or a demand letter as required by NRS 116.31162 forcing plaintiffs to move from hotel to hotel and eat out at restaurants during a Pandemic.

Case Number: A-21-840526-C

Plaintiffs request Entry of Default Judgment against The Martin who have failed to plead or otherwise defend this action, with no further time having been granted by the Court, and with more than 20 days, exclusive of the day of service of process, having expired since service upon the The Martin of the complaint served on December 7, 2021 with Civil Summons.

Wesley Rusch in Pro Se  
BOX 30907  
Las Vegas NV 89173  
Email [dirofcomp@yahoo.com](mailto:dirofcomp@yahoo.com)

Plaintiffs

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

7

WESLEY RUSCH, an individual,  
and OLIVER LONGBOY, an  
individual,

Case No. A-21-840526 - C  
Dept 8

Plaintiffs,  
Plaintiffs,  
Plaintiffs,

vs.

Plaintiffs,

**PLAINTIFFS**  
**REQUEST FOR ENTRY OF**  
**DEFAULT JUDGMENT**

**PLAINTIFFS**  
**REQUEST FOR ENTRY OF**  
**DEFAULT JUDGMENT**

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THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a  
domestic non-profit corporation; DOE

Individuals I

through X; and ROE Corporations and

Organizations I through X,

Defendants.

Plaintiffs have been severely damaged by the actions of the Defendants. First the Flood  
then the wrongful eviction without notice or a demand letter as required by NRS  
**116.31162** forcing plaintiffs to move from hotel to hotel and eat out at restaurants  
during a Pandemic.

Plaintiffs moves for Entry of Default Judgment Order against the above Defendant Martin Condominium Unit Owners Association who have failed to plead or otherwise respond to the complaint.



We further state:

1. We are the Plaintiffs in this action.
2. The Defendant(s) were duly served with a copy of the Civil Summons and Complaint on the 7th day of December 2021. A copy of the proof of service is attached.
3. No Defendant(s) named herein is currently engaged in active military service.
4. For monetary damages as a result of the Flood, in an amount of \$25,442.92.
5. For monetary damages as a result of Defendant's breach of the duty of good faith and fair dealing causing the wrongful eviction in an amount of \$Five Million Dollars each for a total of \$Ten Million Dollars.
6. The following amount is due and owing on Plaintiff's claim as of this date. Six Million Twenty Five Thousand Forty Four Dollars and Ninety Two Cents on the Complaint
7. Total Attorney Fees \$ \$43,577.02.
8. Total \$10,069,019.94

Respectfully submitted

/s/ Oliver Longboy

/s/ Wesley Rusch

**Affidavit in support of motion for default judgment order**

We do solemnly swear or affirm that the facts set out below are true to the best of our knowledge and belief following diligent inquiry, and I request a default judgment.

Defendant(s), Martin Unit Owners Association, having been regularly served with Summons and Complaint, and having failed to appear, plead or answer thereto; the legal time therefore having expired, and not having been extended, the Default of the said Defendant(s) having been duly entered according to law, upon application of said Plaintiffs to the Clerk of the Court for the entry of judgment in accordance with the prayer of the Complaint and the Affidavit of the Plaintiff(s) on file herein, and good cause appearing, it is hereby ordered that the Plaintiffs have judgment against the Defendant in the sum of \$10,069,019.94 with statutory interest from the date of Judgment.

/s/ Oliver Longboy

/s/ Wesley Rusch



DISTRICT COURT  
CLARK COUNTY, NEVADA

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual,

Plaintiffs,

Case No. A-21-840526-C

Dept 8

AFFIDAVIT IN  
SUPPORT OF

vs

JUDGEMENT BY DEFAULT

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-  
profit corporation; DOE Individuals I through  
X; and ROE Corporations and Organizations  
I through X,

Defendants.

I do solemnly swear or affirm that the facts set out below are true to the best of my knowledge and belief following diligent inquiry, and I request a default judgment.

Defendant(s), Martin Unit Owners Association, having been regularly served with Summons and Complaint, and having failed to appear, plead or answer thereto; the legal time therefore having expired, and not having been extended, the Default of the said Defendant(s) having been duly entered according to law, upon application of said Plaintiff(s) to the Clerk of the Court for the entry of judgment in accordance with the prayer of the Complaint and the Affidavit of the Plaintiff(s) on file herein, and good cause appearing, it is hereby

It should be ordered that the Plaintiff(s) have judgment against the Defendant(s) in the sum of  
\$10,069,019;94 with statutory interest from the date of Judgment.

/s/ Wesley Rusch



DISTRICT COURT CLARK COUNTY, NEVADA

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual,

Plaintiffs,

ENTRY OF

vs

JUDGEMENT BY DEFAULT

THE MARTIN CONDOMINIUM UNIT

OWNERS' ASSOCIATION, a domestic non-  
profit corporation; DOE Individuals I through  
X; and ROE Corporations and Organizations  
I through X,

Defendant(s), Martin Unit Owners Association, having been regularly served with Summons and Complaint, and having failed to appear, plead or answer thereto; the legal time therefore having expired, and not having been extended, the Default of the said

Defendant(s) having been duly entered according to law, upon application of said Plaintiff(s) to the Clerk of the Court for the entry of judgment in accordance with the prayer of the Complaint and the Affidavit of the Plaintiff(s) on file herein, and good cause appearing, it is hereby ORDERED that the Plaintiff(s) have judgment against the Defendant(s) in the sum of

\$10,069,019.94 with statutory interest from the date of Judgment.

DISTRICT COURT

By: \_\_\_\_\_ Date \_\_\_\_\_

**CLERK OF THE DISTRICT COURT**

## APPLICATION FOR ENTRY OF DEFAULT

Plaintiff, Wesley Rusch and Oliver Longboy requests that the Clerk of this Court enter the default of Defendant Martin Condominium Unit Owners Association pursuant to Rule 55 of the Nevada Rules of Civil Procedure ("Nev. R. Civ. P.") for the reason that Defendant has failed to plead or otherwise defend this action as required by Rule 12 of the Nev. R. Civ. P.

Plaintiff served Defendant with the Complaint, Summons, and Notice via personal service on December 7, 2021 by personally leaving copies with Defendant. Defendant has not filed an Answer to the Complaint as of December 27, 2021, as required by Rule 12(a)(1)(A)(i) of the Nevada Rules of Civil Procedure. This Application for Entry of Default is supported by the accompanying Affidavit of Default.

In compliance with the provisions of Nev. R. Civ. P. 55(a)(1), Plaintiff has mailed a copy of this Application and accompanying Affidavit in Support of Entry of Default to Defendant at the following known address: Martin Condominium Unit Owners Association 4471 Dean Martin Drive Las Vegas NV 80103

**If Defendant fails to file a responsive pleading or otherwise defend this action within ten (10) days of the filing of this Application, a default judgment will be requested in favor of the Plaintiff.**

In light of the foregoing, Plaintiff respectfully requests that at the expiration of ten (10) days following the filing of this Application, the Court enter Judgment by default in favor of Plaintiff, including an award of Plaintiff's costs and attorney's fees associated with prosecuting this matter.

DATED this 11th day of January , 2022

Respectfully submitted,

By

/S/ Wesley Rusch

/S/ Oliver Longboy

Wesley Rusch and Oliver Longboy Plaintiffs

**The applicable Rule is Nevada Rule 55. Default; Default Judgment**

**(b) Entering a Default Judgment.**

**(1) By the Clerk.** If the plaintiffs claim is for a **sum certain** or a sum that can be made certain by **computation, the clerk**—on the plaintiffs request, with an **affidavit showing the amount due** **must enter judgment for that amount and costs against a**

**defendant who has been defaulted for not appearing** and who is neither a minor nor an incapacitated person. *The Complaint provided a sum certain in the amount of*

*For monetary damages as a result of the Flood, in an amount of **\$25,442.92.***

*For monetary damages as a result of Defendant's breach of the duty of good faith and fair dealing causing the wrongful eviction in an amount of **\$Three Million Dollars each for a total of \$6 Million Dollars.***

*The following amount is due and owing on Plaintiff 's claim as of this date. Ten Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ **\$43,577.02.***

**Total \$10,069,019.94**

Rusch further states:

1.1. Rusch are the Plaintiffs in this action.

1.2. The Defendant The Martin were duly served with a copy of the Civil Summons and Complaint on the 7th day of December 2021.

1.3. No Defendant(s) named herein is currently engaged in active military service.

1.4. For monetary damages as a result of the Flood, in an amount of \$25,442.92.

1.5. For monetary damages as a result of The Martin's breach of the duty of good faith and fair dealing causing the wrongful eviction in an amount of Five Million Dollars each for a total of Ten Million Dollars.

1.6. The following amount is due and owing on Rusch's claim as of this date. Ten Million Twenty Five Thousand Four Hundred Forty Four Dollars and Ninety Two Cents on the Complaint

1.7. Total Attorney Fees \$ 43,577.02.

**8. Total \$10,069,019.94**

Respectfully submitted

/s/ Oliver Longboy

/s/ Wesley Rusch

**Affidavit in support of motion for default judgment order**

We Wesley Rusch and Oliver Longboy do solemnly swear or affirm that the facts set out below are true to the best of my knowledge and belief following diligent inquiry, and We request a default judgment.

The Martin, having been regularly served with Summons and Complaint, and having failed to appear, plead or answer thereto; the legal time therefore having expired, and not having been extended, the Default of the said The Martin having been duly entered according to law, upon application of said Rusch to the Court for the entry of judgment in accordance with the prayer of the Complaint and the Affidavit of the Rusch on file herein, and good cause appearing, it is hereby ordered that Rusch have judgment against The Martin in the sum of \$10,069,019.94 with statutory interest from the date of Judgment.

/s/ Oliver Longboy

/s/ Wesley Rusch



DISTRICT COURT  
CLARK COUNTY, NEVADA

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual,

Plaintiffs,

Case No. A-21-840526-C

Dept 8

AFFIDAVIT IN  
SUPPORT OF

vs

JUDGEMENT BY DEFAULT

THE MARTIN CONDOMINIUM UNIT

OWNERS' ASSOCIATION, a domestic non-  
profit corporation; DOE Individuals I through  
X; and ROE Corporations and Organizations  
I through X,

Defendants.

I do solemnly swear or affirm that the facts set out below are true to the best of my knowledge and belief following diligent inquiry, and I request a default judgment.

Defendant Martin Condominium Unit Owners Association, having been regularly served with Summons and Complaint, and having failed to appear, plead or answer thereto; the legal time therefore having expired, and not having been extended, the Default of the said Defendant having been duly entered according to law, upon application of said Plaintiffs to the Clerk of the Court for the entry of judgment in accordance with the prayer of the Complaint and the Affidavit of the Plaintiffs on file herein, and good cause appearing,

It should be ordered that the Plaintiff(s) have judgment against the Defendant(s) in the sum of  
\$10,069,019.94 with statutory interest from the date of Judgment.

/s/ Wesley Rusch

DISTRICT COURT CLARK COUNTY, NEVADA

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual,

Plaintiffs,

Case No. A-21-840526-C

Dept 8

ENTRY OF

vs

JUDGEMENT BY DEFAULT

THE MARTIN CONDOMINIUM UNIT

OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X; and ROE Corporations and Organizations I through X,

Defendant Martin Condominium Unit Owners Association, having been regularly served with Summons and Complaint, and having failed to appear, plead or answer thereto; the legal time therefore having expired, and not having been extended, the Default of the said

Default having been duly entered according to law, upon application of said Plaintiff to the Clerk of the Court for the entry of judgment in accordance with the prayer of the Complaint and the Affidavit of the Plaintiffs on file herein, and good cause appearing, Plaintiffs hereby have judgment against the Defendant in the sum of

\$10,069,019;94 with statutory interest from the date of Judgment.

DISTRICT COURT

By: \_\_\_\_\_ Date \_\_\_\_\_

1 **ORDR**

2 **DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**

4 \* \* \* \*

5 WESLEY RUSCH, an individual, and  
6 OLIVER LONGBOY, an individual,

7 Plaintiff(s),

8 vs.

9 THE MARTIN CONDOMINIUM UNIT  
10 OWNERS' ASSOCIATION, domestic  
11 non- profit; DOE Individuals I through X;  
12 and ROE Corporations and Organizations  
13 I through X,

14 Defendant(s).

CASE NO.: A20-840526-C

DEPARTMENT 27

15 **ORDER DENYING PLAINTIFF'S**  
16 **REQUEST TO FILE**

17 **COURT FINDS** after review that Plaintiff filed a Request to file an Order was filed on  
18 October 26, 2022. A copy is attached as Exhibit A. The Order was basically an Entry of  
19 Judgment in favor of the Plaintiff that awarded over eight million dollars.

20 **COURT FURTHER FINDS** after review that on June 30, 2022, Defendant's Motion to  
21 Dismiss was granted.

22 **COURT FURTHER FINDS** after review that on July 1, 2022, a Notice of Entry of  
23 Vexatious Litigant and Pre-Filing Order ('Pre-Filing Order') against Plaintiffs as filed.

24 **COURT FURTHER FINDS** after review that Plaintiff's request to file an order is a  
25 Fugitive request.

26 **COURT FURTHER FINDS** after review that Plaintiff's request to file an order violated  
27 the Pre-Filing Order.  
28

**THEREFORE, COURT ORDERS** for good cause appearing and after review that the Plaintiff's Request to File is hereby **DENIED**.

November 2, 2022

**Dated this 2nd day of November, 2022**

Nancy L Alf

MA

**F9A 070 62A4 035B**  
**Nancy Alf**  
**District Court Judge**

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# EXHIBIT 1

Wesley Rusch

Dirofcomp@Yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual  
Plaintiffs,

Case No. A-20-826568-C  
**Case No. A-21-840526-C**

**Dept 27**

**ORDER**

vs

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, Defendant

**Plaintiffs hereby request relief to file this ORDER**

**Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint against the  
Martin Condominium Unit Owners Association seeking compensation for their wrongful  
and illegal acts.**

The Martin was served by serving their agent for service of Process First Residential  
Financial.

The Martin failed to respond to the complaint.

**The Martin is at fault for the flood damage that caused Plaintiffs to vacate their condo for over three months so that Nigro could repair the condo.**

The **Martin did not comply with the Martin CCRs NRS22.116 et seq** when it sold the property, There was no notice nor demand letter; a clear violation of the constitutional right to due process of law.

### **First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. The Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either turn off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs' personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

## **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

### **Notice of Delinquent Assessments**

Before starting the foreclosure, the **HOA must mail a notice of delinquent assessment to the homeowner**, which states:

the **amount of the assessments and other sums that are due**  
a description of the unit against which the lien is imposed, and  
the name of the record owner of the unit. (Nev. Rev. Stat. § 116.31162).

NRS 116.31162 specifically provides that: Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the **association may foreclose its lien by sale after all of the following occur:**



(a) **The** association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, **a notice of delinquent assessment which states the amount of the assessments and other sums which are due** *The Martin Failed to do this.* in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) **Not less than 30 days after mailing the notice of delinquent assessment** pursuant to paragraph (a), the association or other person conducting the sale **has executed and caused to be recorded, with the county recorder of the county** *The Martin failed to do this* in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE  
YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS

116.310305.

(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608)

**The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of **\$25,442.92.***

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of **\$Four Million Dollars each for a total of \$Eight Million Dollars.***

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ **\$43,577.02.** Amount Bryan Naddafi wrongful took from proceeds*

***Total \$8,069,019.94***

**Respectfully submitted**

**/S/ Wesley Rusch**

**Wesley Rusch**

Wesley Rusch

Dirofcomp@Yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual  
Plaintiffs,

Case No. A-20-826568-C  
**Case No. A-21-840526-C**

**Dept 27**

**ORDER**

VS

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, Defendant

**Plaintiffs Wesley Rusch and Oliver Longboy are hereby awarded damages against the  
Martin Condominium Unit Owners Association for their wrongful and illegal acts in the  
amount of \$8,069,019.94**

---

**District Court Judge**

**Dated**\_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that on or about the date signed I caused the foregoing document to be electronically served pursuant to EDCR 8.05(a) and 8.05(f) through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail to

\_\_\_\_\_/s/\_\_\_\_\_  
Karen Lawrence  
Judicial Executive Assistant

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Wesley Rusch, Plaintiff(s)

CASE NO: A-21-840526-C

7 vs.

DEPT. NO. Department 27

8 Martin Condominium Unit  
9 Owners Association,  
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 11/2/2022

16 Marc Cwik

Marc.Cwik@lewisbrisbois.com

17 Susan Awe

susan.awe@lewisbrisbois.com

18  
19 If indicated below, a copy of the above mentioned filings were also served by mail  
20 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 11/3/2022

21 Oliver Longboy

P.O. Box 30907  
Las Vegas, NV, 89173

22  
23 Wesley Rusch

po box 30907  
las vegas, NV, 89173





Wesley Rusch

Dirofcomp@Yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual

Plaintiffs,

Case No. A-20-826568-C  
Case No. A-21-840526-C

Dept 27

MOTION FOR RECONSIDERATION

vs

**REQUEST FOR HEARING**

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, DefendantP

**Plaintiffs hereby request relief to file this PAPER**

**Plaintiff seeks reconsideration based on decision being clearly erroneous**

**Plaintiffs is not a vexatious litigant as HE HAS NOT FILED MULTIPLE LAWSUITS WITHOUT MERIT.**

**PLAINTIFFS LAWSUITS HAVE BEEN WITH MERIT AS DISCUSSED  
BELOW AND THE PLAINTIFFS SHOULD HAVE BEEN AWARDED  
COMPENSATION YEARS AGO.**

**Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint against the  
Martin Condominium Unit Owners Association seeking compensation for their wrongful  
and illegal acts.**

The Martin was served by serving their Agent for Service of Process First Residential Financial. Affidavit is attached heretofore and incorporated by this reference.

**The Martin failed to respond to the complaint.**

## **PLAINTIFFS SEEK COMPENSATION *NOT POSSESSION***

Plaintiffs hereby moves that this court to decide this case based on the **TRUE FACTS and LAW** and not on the **FALSE and MISLEADING STATEMENTS** being constantly made by the MARTIN including their orders which also contain **FALSE AND MISLEADING STATEMENTS**.

This case is about **Recovery for Damages** Plaintiffs have suffered as a result of the MARTIN's actions and inactions.

## **THE COURT IS INCORRECT REGARDING THE REQUIREMENTS FOR A MOTION FOR RECONSIDERATION.**

### **LEGAL STANDARD**

#### **A Motion for Reconsideration Standard.**

The Nevada Supreme Court has explained that “[o]nly in very rare instances in which **new issues of fact or law are raised supporting a ruling contrary to the ruling already reached** should a motion for rehearing be granted.” *See Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) (emphasis added); *see also Masonry & Tile Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997) (reconsideration is appropriate only where “substantially different evidence is subsequently introduced or **the decision is clearly erroneous**”).

The motion must request a substantive alteration of a judgment, not merely a correction of a clerical error or relief of a type wholly collateral to a judgment. *Id.* at 582. The grounds for filing a motion under NRCP 59(e) include **correcting manifest errors of law or fact**, newly discovered or previously unavailable evidence, **the need to prevent a manifest injustice**, *See Allstate Insurance Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011) (discussing *FRCP 59*, the federal counterpart to NRCP 59). The Martin states the following in their papers:

Dismissal is appropriate under NRCP 12(b)(5) where the allegations in the Complaint, taken at “face value,” and construed favorably in the Plaintiff’s behalf, **fail to state a cognizable claim**. *See Morris v. Bank of Am.*, 110 Nev. 1274, 886 P.2d 454 (1994); *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008).

A district court is to **accept the plaintiff’s factual allegations as true**, but the **allegations must still be legally sufficient to constitute the elements of the claim(s) asserted**. *See Malfabon v. Garcia*, 111 Nev. 793, 796, 898 P.2d 107, 108 (1995). The test for determining whether the allegations of a complaint are **sufficient to assert a claim for relief is whether the allegations give fair notice of the nature and basis of a legally sufficient claim and the relief requested**. *Ravera v. City of Reno*, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984).

**Plaintiff’s Complaint have set forth a valid claim against the Martin of which the Martin has offered no defense as it has NO DEFENSE.**

**The Martin has admitted they were at fault for the flood damage that caused**

**Plaintiffs to vacate their condo for over three months so that Nigro could repair the condo.**

**The Martin has admitted that Red Rock sold Plaintiff's Condo in violation of Nevada Law**

The Martin did not comply with the Martin CCRs NRS22.116 et seq when it sold the property, There was no notice nor demand letter; a clear violation of the constitutional right to due process of law. **The Martin has produced no notice as there was no notice to produce.**

It is obvious from that Defendant's arguments that they are confused regarding the nature of this case.

There are really two causes of action causing significant damages to Plaintiffs.

Furthermore the complaint requests **compensation for damages.**

### **THE MARTIN FAILED TO COMPLY WITH NEVADA LAW**

#### **HOA Boards Beware: Nevada Courts Require Strict Statutory Compliance to Lien and Foreclosure**

Collecting assessments is a vital function to fund the HOA's activities. It is unfair for some owners to avoid paying their fair share, and to have the other owners shoulder their burden. Recognizing this, the Legislature has granted Nevada HOAs the powerful tools to lien and foreclose under the Act. However, with those powerful tools comes the obligation to closely comply with each and every requirement of the Act. it is implicit that HOAs must also closely follow their own governing documents

(CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

Because of the technical nature of the Act and the courts' apparent deference to err in favor of due process protections for HOA owners (not too dissimilar from the protections typically afforded to California tenants in unlawful detainer proceedings), the Act is fertile ground for mistakes. **These recent cases make clear that even minor or technical violations can invalidate the lien and foreclosure process**, and add delay and additional expense to the collection process.

Sale of Plaintiff's condo was in violation of the Martins CCRs and Nevada Law

Plaintiff is seeking **damages** from the following events

### **First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. The Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either turn off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to**

**vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

## **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 and CCR 17.2**

### **The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**THE COURT SHOULD GRANT PLAINTIFF'S SUMMARY**

## JUDGMENT

NRCP 56 provides the following: “The court shall grant summary judgment if the movant shows that there is **no genuine dispute as to any material fact** and the movant is entitled to **judgment as a matter of law**. The court should state on the record the reasons for granting or denying the motion.” **There is no genuine dispute as to the Flood Damages and the Wrongful Sale of Plaintiff's Condo therefore Summary Judgment must be awarded to Plaintiffs.**

The Martin states that This Court finds that Plaintiffs failed to present any credible evidence that RRFS failed to give proper notice or otherwise failed to properly conduct the foreclosure on behalf of Martin CUOA. **THIS ARGUMENT MAKES NO SENSE. HOW DO YOU PROVE A NEGATIVE. THE MARTIN DID NOT GIVE NOTICE!! LET THE MARTIN PROVE THAT RRFS COMPLIED WITH THE LAW. THEY HAVE NOT DONE SO BECAUSE THEY ARE UNABLE TO DO SO CAUSE THE MARTIN KNOWS RRFS SOLD THE CONDO IN VIOLATION OF NEVADA LAW.**

**Furthermore the Martin provides no Declaration to support any of their purported “Facts”**

**Plaintiffs are tired of moving from hotel to hotel and eating out for every meal. It**

**is about time for the court to compensate Plaintiffs for the wrongful actions of the Martin selling their home without notice in violation of Nevada Law and their Constitutional Right of Due Process of Law.**

## **POINTS AND AUTHORITIES**

### **Motion to reconsider**

A motion for reconsideration typically asks the deciding court to reconsider its decision due to the court's failure to review specific legal arguments.

The Martin does not deny that Plaintiffs have file a valid Motion to Reconsider

A motion for reconsideration typically asks the deciding court to reconsider its decision due to the **court's failure to review specific legal arguments**. Alternatively, perhaps the **court misconstrued the argument presented**. Filing a motion for reconsideration allows the moving party to clarify the legal arguments and possibly change the outcome of the case.

**Rule 2.24. Rehearing of motions.**



(a) No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties.

(c) If a motion for rehearing is granted, the court may make a final disposition of the cause without reargument or may reset it for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

Motions for reconsideration are essential litigation tools. Practitioners need not feel overly pessimistic about the odds for success if they have reasonable grounds for the motion.

Motions for reconsideration are an opportunity to **advance the correct adjudication of a matter.**

Where a **mistake has truly occurred** or you feel the **court missed a critical point**, seize the opportunity to get your case back on track. **Judicial economy favors correction of mistakes** as early as possible, before costly and time-consuming appeals begin. Trial courts are interested in avoiding or correcting mistakes. A thoughtfully presented motion for reconsideration could be just the ticket.

Be sure to cite the specific "causes" on which you are relying.

That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is **contrary to law**;

That **substantial justice has not been done.**

The Martin does not deny that CASES SHOULD BE DECIDED ON THEIR

## MERITS

### *What does on the Merits Mean by Dale Marshall*

Last Modified Date: October 20, 2020

“On the merits” is a term that has its roots in the law: a judge, having reviewed the materials relevant to a lawsuit, may render a verdict based not on issues of procedure or other technicalities, but strictly on the facts introduced into evidence and the law as it applies to those facts. A judge who decides a case on the merits considers that any technical or procedural issues that have been raised are either dealt with or irrelevant. The purpose of deciding cases in this way is to ensure that justice is done, rather than reward or punish one of the parties unfairly because of adherence to, or failure to follow, procedural requirements.

**THE FOLLOWING ARE NEW FACTS SUBSEQUENT TO THE HEARING!**

**Wesley Rusch and Oliver Longboy Plaintiffs “hereinafter Plaintiffs” object to the Courts Orders on the grounds that they contains FALSE and MISSING STATEMENTS. It is apparent that the court never read the orders before signing them otherwise they would have had seen the blatant errors therein. The Martin**

**does not deny the false and misleading statements container therein.**

It is obvious from the order that Defendant's are confused regarding the nature of this case.

The Martin does not deny the following

HOA Boards Beware: Nevada Courts Require Strict Statutory Compliance to Lien and Foreclose

Collecting assessments is a vital function to fund the HOA's activities. It is unfair for some owners to avoid paying their fair share, and to have the other owners shoulder their burden. Recognizing this, the Legislature has granted Nevada HOAs the powerful tools to lien and foreclose under the Act. However, with those powerful tools comes the obligation to closely comply with each and every requirement of the Act. it is implicit that HOAs must also closely follow their own governing documents (CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

Because of the technical nature of the Act and the courts' apparent deference to err in favor of due process protections for HOA owners (not too dissimilar from the protections typically afforded to California tenants in unlawful detainer proceedings), the Act is fertile ground for mistakes. **These recent cases make clear that even minor or technical violations can invalidate the lien and foreclosure process**, and add delay and additional expense to the collection process.

The Martin does not deny that the Sale of Plaintiffs condo is void

Plaintiff is seeking **damages** from the following events

**First Cause the Flooding**

That on or about June 29, 2015, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran yhroughout the entire floor where the Subject Property was located. the Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either tum off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

## **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

### **Notice of Delinquent Assessments**

Before starting the foreclosure, the **HOA must mail a notice of delinquent assessment to the homeowner,** which states:

the **amount of the assessments and other sums that are due**  
a description of the unit against which the lien is imposed, and

the name of the record owner of the unit. (Nev. Rev. Stat. § 116.31162).

NRS 116.31162 specifically provides that: Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the **association may foreclose its lien by sale after all of the following occur:**

(a) **The** association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, **a notice of delinquent assessment which states the amount of the assessments and other sums which are due** *The Martin Failed to do this.* in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) **Not less than 30 days after mailing the notice of delinquent assessment** pursuant to paragraph (a), the association or other person conducting the sale **has executed and caused to be recorded, with the county recorder of the county** *The Martin failed to do this* in which the common-interest community or any part of it is situated, a notice of default and

election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit, whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608)

### **The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of **\$25,442.92.***

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of **\$Four Million Dollars each for a total of \$Eight Million Dollars.***

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety*

*Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**Therefore Defendant's motions and orders must be stricken and judgment entered in favor of Plaintiffs**

**THE COURT HAS FAILED TO ADDRESS THE ISSUES THAT PLAINTIFFS RAISED LISTING THE FALSE AND MISLEADING STATEMENTS PLACED IN THEIR ORDER WHICH PLAINTIFFS WERE NOT ALLOWED TO REVIEW BEFORE THE MARTIN SUBMITTED SUCH ORDERS TO THE COURT**

4. The Subject Property was foreclosed upon by Martin CUOA and sold at a foreclosure sale **WITHOUT NOTICE AND IN VIOLATION OF MARTINS CCRs AND NEVADA LAW** conducted by RRFS on behalf of Martin CUOA related to Plaintiffs' being delinquent on paying their monthly assessments, late fees, and their fines they were assessed as residents at The Martin. Per publicly-available records, the foreclosure sale took place on August 10, 2017 and the Foreclosure Deed was recorded on October 17, 2017.

5. This Court finds that prior to the foreclosure, RRFS provided various required notices to Plaintiffs, including but not limited to, the amount of Plaintiffs' delinquency, Martin CUOA's lien, Martin CUOA's intent to proceed with foreclosure of the lien, and notice of the foreclosure sale. **HOWEVER RRFS DID NOT PROVIDE THE LEGALLY REQUIRED NOTICE FOR THE**



## AUGUST 10 SALE

6. This Court finds that prior to the foreclosure being completed, both Plaintiffs filed voluntary petitions for bankruptcy and received discharges of the debt owing to Martin CUOA. **HOWEVER THE MARTIN TOOK MORE MONEY THAN THEY WERE ENTITLED TO AS THOSE DEBTS TO THE MARTIN WERE DISCHARGED IN BANKRUPTCY**

7. This Court finds that Plaintiffs **PRESENTED** credible evidence that RRFS failed to give proper notice or otherwise failed to properly conduct the foreclosure on behalf of Martin CUOA. **THERE WAS NO NOTICE AND NO COMPLAINE WITH MARTINS CCRs AND NEVADA LAW.**

8. This Court finds that on February 22, 2018, Plaintiffs DID NOT receive the excess proceeds from the foreclosure sale. **AS THE MARTIN WITHOUT AUTHORIZATION GAVE THE CHECK TO BRYAN NADDAFT'S OFFICE WHO WITHOUT AUTHORIZATION CASHED THE CHECK.**

9. This Court finds that on February 22, 2018, prior to NOT receiving the excess proceeds, Plaintiffs executed a Disbursement and Indemnification Agreement prepared by RRFS which noted the foreclosure resulted from Plaintiffs' failure to pay Martin CUOA's assessments, fees and costs, including related collection fees and costs, and indemnified and released RRFS with regard to all claims related to distribution of the Excess Funds and claims arising out of or in connection with the sale of the Subject Condominium.

THIS RELEASE IS NULL and VOID AS THE MARTIN NEVER GAVE THE PROCEEDS TO PLAINTIFF AND THE RELEASE IS A FORM OF EXTORTION AS THE FUNDS RIGHTLY BELONGED TO PLAINTIFF

10. This Court further finds that when executing the Disbursement and Indemnification Agreement, Plaintiffs **DID NOT** sent a letter to their attorney, Bryan Naddafi, which stated the following: "Bryan, Please acknowledge receipt and give Red Rock Koch & Scow OK to distribute funds to me today. Wes." **THIS STATEMENT IS FALSE AND THE MARTIN DID NOT DISTRIBUTE THE PROCEEDS TO RUSCH AS INSTRUCTED**
11. This Court further finds that when Plaintiffs **DID NOT DISTRIBUTE THE PROCEEDS TO RUSCH AS INSTRUCTED**

**This Court further finds that when Plaintiffs never accepted the excess proceeds of the foreclosure sale from RRFS,**

Declaration of Wesley A Rusch

Declarant has personal knowledge of the following and being deposed and sworn states under penalty of perjury under the Laws of the State of Nevada, as follow:

1. I am over the age of Eighteen.
2. That myself and Oliber B Longboy, are the two individuals who purchased the real property commonly known as 4471 Dean Martin, Apt 2206, Las Vegas NV 89103.
3. We own no other property and have no other place to live.
4. Hollyvale Rental Holdings, LLC is based on information and belief an entity that speculates in real estate. They are not a real person and do no need a place to live.
5. On the other hand Rusch and Longboy are two individuals who are two real people who need a place to live.
6. Neither Rusch or Longboy received any notice of any proposed or ported auction of their property for August 10, 2017. Redrock as agent for the Martin violated Nevada law by selling their property without complying with Nevada law.

7. Our real property was sold at auction purportedly for delinquent HOA fees on August 10, 2017. When in fact the Martin owed Rusch more than the HOA fees. On about June 29 a sprinkler pipe broke in the unit at the end of the 22<sup>nd</sup> floor causing water to flow down the hallway and into Rusch's unit. According to Nigro there was water in Rusch's walls that had to be replaced. The Martin failed to mitigate the damage by not opening the sliding glass door to allow the water to flow down the side of the building instead of down the hall. The Martin also let the water flow for several hours before turning off the water. Had the Martin done either of the foregoing Rusch's Condo would not have suffered damage. As a consequence, Rusch was required to relocate for nearly four months while Nigro repaired his unit. Nigro did not even complete the job and Rusch had to hire his own contractor to complete the job. Rusch incurred expenses in excess of \$25,000 as a result thereof. Rusch therefore claims that amount as an offset to his HOA fees and therefore does not owe the Martin any money and in fact the Martin owes Rusch money.
8. That neither myself nor Oliver B Longboy had received any notice of the impending HOA sale of our real property.

September 1 2022  
FURTHER DECLARANT SAVETH NAUGHT  
/S/ Wesley Rusch  
WESLEY A RUSCH

There is no basis to award The Martin Summary Judgment Rather Plaintiffs should be awarded summary judgment as to the valid claims have filed against the Martin for which they have offered no defense

**It is about time to resolve the case in Plaintiff's favor as the Martin has no defense to any of their claims listed in the complaint and therefore PLAINTIFF MUST BE AWARDED JUDGMENT**

Respectfully Submitted

/S/ Wesley Rusch  
Wesley Rusch

---

Your Name: Wesley Rusch and Oliver Longboy  
Address: PO Box 30907 \_\_\_\_\_  
City, State, Zip Las Vegas NV 89173  
Telephone: 7027640001  
Email Address: Dirofcomp@yahoo.com  
Self-Represented

**DISTRICT COURT      CLARK COUNTY, NEVADA    Case No. A-21-840526 - C**  
**CLARK COUNTY, NEVADA                      Case No. A-21-840526 - C**  
**Dept 8**

**AFFIDAVIT OF SERVICE**

*(this form is to be completed by the person who serves the document)*

I, *(name of person who served the documents)* J Jones Clark County Sheriffs Department, declare  
***(complete EVERYSECTION below)***:

**I am not a party to or interested in this action and I am over 18 years of age.**

9.      ***What Documents You Served.*** I served a copy of the  
Complaint for Compensation and Court Issued Summons

10. ***Who You Served.*** I served the Defendant Martin Condominium Unit Owners Association by  
serving First Residential Financial

11. ***When You Served.***                      I personally served the documents on 12:00 hour of  
*(time)(day)* December 7, 2021

12. ***Where You Served.*** I personally delivered and left the documents with  
**The Party to the Case.** I served the documents on the party at the location below.  
*(complete the details below)*

Name of Person M Mendo First Residential Financial Services

Address Where Served 8290 Arville Street Las Vegas, NV 89139

**I am not required to be licensed under Chapter 648 of the Nevada Revised Statutes or another provision of law because I am not engaged in the business of serving legal process within the state of Nevada.**

**I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT THE FOREGOING IS TRUE AND CORRECT.**

DATED (month) December (day) 7, 20 21.

Server's Signature: ▶ /S/ J Jones Clark County Sheriffs Department

County Sheriffs Department

Server's Phone Number (702) 455-5400



Wesley Rusch

Dirofcomp@yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual

Plaintiffs,

Case No. A-20-826568-C  
Case No. A-21-840526-C

Dept 27

MOTION FOR RECONSIDERATION RE ORDER RE  
VEXATIOUS LITIGANT

VS

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, Defendant

**Plaintiffs hereby request relief to file this ORDER**

**Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint  
against the Martin Condominium Unit Owners Association seeking  
compensation for their wrongful and illegal acts.**

**WESLEY RUSCH IS NOT A VEXATIOUS LITIGANT**

In Nevada, a “vexatious litigant” has been defined as one “who repeatedly files

**frivolous lawsuits.”** *See Peck v. Crouser*, 129 Nev. 120, 122, 295 P.3d 586, 587 (2013)

(citing Black’s Law Dictionary 952 (8th ed. 2004)).



The Subject Property was foreclosed upon by Martin CUOA and sold at a foreclosure sale conducted by RRFS *Without the legally required notice* on behalf of Martin CUOA.

Plaintiff has file a complaint with the following causes of actions which is not frivolous

### **Sale of Rusch condo is was in violation of the Martins CCRs and Nevada Law**

Plaintiff is seeking **damages** from the following events

#### **First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. the Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either tum off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

### **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

**The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**THE TWO COMPLAINTS RUSCH FILED WERE IN NO WAY FRIVOLOUS IN NATURE BUT RATHER AN ATTEMPT TO RECEIVE COMPENSATION RUSCH SUSTAINED AS A RESULT OF THE MARTINS WRONGFUL AND ILLEGAL ACTIONS.**

Respectfully Submitted

/S/ Wesley Rusch

*Heather L. Hume*

CLERK OF THE COURT

1 **ORDR**

2 **DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**

4 \* \* \* \*

5 WESLEY RUSCH, an individual, and  
6 OLIVER LONGBOY, an individual,

7 Plaintiff(s),

8 vs.

9 THE MARTIN CONDOMINIUM UNIT  
10 OWNERS' ASSOCIATION, domestic  
11 non- profit; DOE Individuals I through X;  
12 and ROE Corporations and Organizations  
13 I through X,

14 Defendant(s).

CASE NO.: A-20-840526-C

DEPARTMENT 27

15 **ORDER DENYING PLAINTIFF'S**  
16 **REQUEST TO FILE**

17 **COURT FINDS** after review that Plaintiff filed a Request to file an Order was filed on  
18 November 15, 2022. A copy is attached as Exhibit A. The Order was basically an Entry of  
19 Judgment in favor of the Plaintiff that awarded over eight million dollars.

20 **COURT FURTHER FINDS** after review that on June 30, 2022, Defendant's Motion to  
21 Dismiss was granted.

22 **COURT FURTHER FINDS** after review that on July 1, 2022, a Notice of Entry of  
23 Vexatious Litigant and Pre-Filing Order ('Pre-Filing Order') against Plaintiffs as filed.

24 **COURT FURTHER FINDS** after review that Plaintiff's request to file an order is a  
25 Fugitive request.

26 **COURT FURTHER FINDS** after review that Plaintiff's request to file an order violated  
27 the Pre-Filing Order.  
28

**THEREFORE, COURT ORDERS** for good cause appearing and after review that the Plaintiff's Request to File is hereby **DENIED**.

November 17, 2022

**Dated this 17th day of November, 2022**

Nancy L Alf

MA

**A58 BDB 54C9 89CB**  
**Nancy Alf**  
**District Court Judge**

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# EXHIBIT 1

Wesley Rusch

Dirofcomp@Yahoo.com

Box 30907

Las Vegas, NV 89173

WESLEY RUSCH, an individual, and

OLIVER LONGBOY, an individual

Plaintiffs,

Case No. A-20-826568-C

**Case No. A-21-840526-C**

**Dept 27**

**ORDER**

vs

THE MARTIN CONDOMINIUM UNIT

OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, Defendant

**Plaintiffs hereby request relief to file this Order.**

## **ORDER**

Based upon the Findings of Fact and Conclusions of Law set forth above, both under procedural law and substantive law, and good cause appearing, this Court orders, as

follows:

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Martin CUOA's is awarded in favor of Plaintiff Wesley Rusch and Oliver Longboy

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

### **FACTS:**

**Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint against the Martin Condominium Unit Owners Association seeking compensation for their wrongful and illegal acts.**

The Martin was served by serving their Agent for Service of Process First Residential Financial. Affidavit is attached heretofore and incorporated by this reference.

**The Martin failed to respond to the complaint. Therefore a default judgment is in order.**

\_\_\_\_\_  
Judges Signature

Respectfully Submitted

/S/ Wesley Rusch  
Wesley Rusch

---



Your Name: Wesley Rusch and Oliver Longboy  
Address: PO Box 30907\_\_\_\_\_  
City, State, Zip Las Vegas NV 89173  
Telephone: 7027640001  
Email Address: Dirofcomp@yahoo.com  
Self-Represented

**DISTRICT COURT      CLARK COUNTY, NEVADA    Case No. A-21-840526 - C**  
**CLARK COUNTY, NEVADA      Case No. A-21-840526 - C**  
**Dept 8**

**AFFIDAVIT OF SERVICE**

*(this form is to be completed by the person who serves the document)*

I, *(name of person who served the documents)* J Jones Clark County Sheriffs Depatment, declare  
***(complete EVERY SECTION below)***:

**I am not a party to or interested in this action and I am over 18 years of age.**

9.      ***What Documents You Served.*** I served a copy of the  
Complaint for Compensation and Court Issued Summons

10. ***Who You Served.*** I served the Defendant Martin Condominium Unit Owners Association by  
serving First Residential Financial

11. ***When You Served.***      I personally served the documents on 12:00 hour of  
*(time)(day)* December 7, 2021

12. ***Where You Served.*** I personally delivered and left the documents with

**The Party to the Case.** I served the documents on the party at the location below.  
*(complete the details below)*

Name of Person M Mendo First Residential Financial Services

Address Where Served 8290 Arville Street Las Vegas, NV 89139

**I am not required to be licensed under Chapter 648 of the Nevada Revised Statutes or another provision of law because I am not engaged in the business of serving legal process within the state of Nevada.**

**I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT THE FOREGOING IS TRUE AND CORRECT.**

DATED (month) December (day) 7, 20 21.

Server's Signature: ▶ /S/ J Jones Clark County Sheriffs Department

County Sheriffs Department

Server's Phone Number (702) 455-5400

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**CERTIFICATE OF SERVICE**

I hereby certify that on or about the date signed I caused the foregoing document to be electronically served pursuant to EDCR 8.05(a) and 8.05(f) through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail to

\_\_\_\_\_/s/\_\_\_\_\_  
Karen Lawrence  
Judicial Executive Assistant

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Wesley Rusch, Plaintiff(s)

CASE NO: A-21-840526-C

7 vs.

DEPT. NO. Department 27

8 Martin Condominium Unit  
9 Owners Association,  
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 11/17/2022

16 Marc Cwik

Marc.Cwik@lewisbrisbois.com

17 Susan Awe

susan.awe@lewisbrisbois.com

18  
19 If indicated below, a copy of the above mentioned filings were also served by mail  
20 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 11/18/2022

21 Oliver Longboy

P.O. Box 30907  
Las Vegas, NV, 89173

22  
23 Wesley Rusch

po box 30907  
las vegas, NV, 89173



Wesley Rusch

Dirofcomp@Yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual

Plaintiffs,

Case No. A-20-826568-C

Case No. A-21-840526-C

Dept 27

vs

MOTION FOR RECONSIDERATION  
Just the Facts

**REQUEST FOR HEARING**

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, DefendantP

**Plaintiffs hereby request relief to file this PAPER**

**Plaintiff seeks reconsideration based on decision being clearly erroneous**

**Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint against the Martin Condominium Unit Owners Association seeking compensation for their wrongful and illegal acts.**

The Martin was served by serving their Agent for Service of Process First Residential Financial. Affidavit is attached heretofore and incorporated by this reference.

**The Martin failed to respond to the complaint. Therefore a default judgment is in order.**

## **PLAINTIFFS SEEK COMPENSATION** *NOT POSSESSION*

This case is about **Recovery for Damages** Plaintiffs have suffered as a result of the MARTIN's actions and inactions.

A district court is to **accept the plaintiff's factual allegations as true**, but the **allegations must still be legally sufficient to constitute the elements of the claim(s) asserted**. *See Malfabon v. Garcia*, 111 Nev. 793, 796, 898 P.2d 107, 108 (1995). The test for determining whether the allegations of a complaint are **sufficient to assert a claim for relief is whether the allegations give fair notice of the nature and basis of a legally sufficient claim and the relief** requested. *Ravera v. City of Reno*, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984).

**Plaintiff's Complaint** have set forth a valid claim against the Martin of which the Martin has offered no defense as it has **NO DEFENSE**.

**The Martin has admitted they were at fault for the flood damage that caused Plaintiffs to vacate their condo for over three months so that Nigro could repair the condo.**

**The Martin has admitted that Red Rock sold Plaintiff's Condo in violation of Nevada Law**

**The Martin did not comply with the Martin CCRs NRS22.116 et seq** when it sold the property,

There was no notice nor demand letter; a clear violation of the constitutional right to due process of law. **The Martin has produced no notice as there was no notice to produce.**

It is obvious from that Defendant's arguments that they are confused regarding the nature of this case.

There are really two causes of action causing significant damages to Plaintiffs.

Furthermore the complaint requests **compensation for damages.**

## **THE MARTIN FAILED TO COMPLY WITH NEVADA LAW**

### **Nevada Courts Require Strict Statutory Compliance to Lien and Foreclosure**

It is implicit that HOAs must also closely follow their own governing documents (CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

Because of the technical nature of the Act and the courts' apparent deference to err in favor of due process protections for HOA owners (not too dissimilar from the protections typically afforded to California tenants in unlawful detainer proceedings), the Act is fertile ground for mistakes. **These recent cases make clear that even minor or technical violations can invalidate the lien and foreclosure process.**

**Sale of Plaintiff's condo was in violation of the Martins CCRs and Nevada Law**

Plaintiff is seeking **damages** from the following events

### **First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. The Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either turn off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs' personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

### **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 and CCR 17.2**

**The complaint seeks damages**



*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of **\$Four Million Dollars each for a total of \$Eight Million Dollars.***

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

## **THE COURT SHOULD GRANT PLAINTIFF'S SUMMARY JUDGMENT**

NRCP 56 provides the following: "The court shall grant summary judgment if the movant shows that there is **no genuine dispute as to any material fact** and the movant is entitled to **judgment as a matter of law**. The court should state on the record the reasons for granting or denying the motion." **There is no genuine dispute as to the Flood Damages and the Wrongful Sale of Plaintiff's Condo therefore Sumary Judgment must be awarded to Plaintiffs.**

**Plaintiffs are tired of moving from hotel to hotel and eating out for every meal. It is about time for the court to compensate Plaintiffs for the wrongful actions of the Martin selling their home without notice in violation of Nevada Law and their Constitutional Right of Due Process of Law.**

That **substantial justice has not been done.**

**The Martin does not deny that CASES SHOULD BE DECIDED ON THEIR MERITS**

**The Martin does not deny that the Sale of Plaintiffs condo is void**

Plaintiff is seeking **damages** from the following events

### **First Cause the Flooding**

That on or about June 29, 2015, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran yhroughout the entire floor where the Subject Property was located. the Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either tum off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to**

**vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

## **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

### **Notice of Delinquent Assessments**

Before starting the foreclosure, the **HOA must mail a notice of delinquent assessment to the homeowner**, which states:

**the amount of the assessments and other sums that are due**  
a description of the unit against which the lien is imposed, and  
the name of the record owner of the unit. (Nev. Rev. Stat. § 116.31162).

NRS 116.31162 specifically provides that: Foreclosure of liens; Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration

provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the **association may foreclose its lien by sale after all of the following occur:**

(a) **The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due** *The Martin Failed to do this.* in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) **Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county** *The Martin failed to do this* in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE**

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608)

### **The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight*

*Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**Therefore Defendant's motions and orders must be stricken and judgment entered in favor of Plaintiffs**

Declaration of Wesley A Rusch

Declarant has personal knowledge of the following and being deposed and sworn states under penalty of perjury under the Laws of the State of Nevada, as follow:

1. I am over the age of Eighteen.
2. That myself and Oliber B Longboy, are the two individuals who purchased the real property commonly known as 4471 Dean Martin, Apt 2206, Las Vegas NV 89103.
3. We own no other property and have no other place to live.
4. On the other hand Rusch and Longboy are two individuals who are two real people who need a place to live.
5. Neither Rusch nor Longboy received any notice of any proposed or ported auction of their property for August 10, 2017. Red Rock as agent for the Martin violated Nevada law by selling their property without complying with Nevada law.
6. Our real property was sold at auction purportedly for delinquent HOA fees on August 10, 2017. When in fact the Martin owed Rusch more than the HOA

fees. On about June 29 a sprinkler pipe broke in the unit at the end of the 22<sup>nd</sup> floor causing water to flow down the hallway and into Rusch's unit. According to Nigro there was water in Rusch's walls that had to be replaced. The Martin failed to mitigate the damage by not opening the sliding glass door to allow the water to flow down the side of the building instead of down the hall. The Martin also let the water flow for several hours before turning off the water. Had the Martin done either of the foregoing Rusch's Condo would not have suffered damage. As a consequence, Rusch was required to relocate for nearly four months while Nigro repaired his unit. Nigro did not even complete the job and Rusch had to hire his own contractor to complete the job. Rusch incurred expenses in excess of \$25,000 as a result thereof. Rusch therefore claims that amount as an offset to his HOA fees and therefore does not owe the Martin any money and in fact the Martin owes Rusch money.

7. That neither myself nor Oliver B Longboy had received any notice of the impending HOA sale of our real property.

September 1 2022  
FURTHER DECLARANT SAVETH NAUGHT  
/S/ Wesley Rusch  
WESLEY A RUSCH



**It is about time to resolve the case in Plaintiff's favor as the  
Martin has no defense to any of their claims listed in the  
complaint and therefore PLAINTIFF MUST BE AWARDED  
JUDGMENT**

Respectfully Submitted

/S/ Wesley Rusch  
Wesley Rusch

---

Your Name: Wesley Rusch and Oliver Longboy  
Address: PO Box 30907 \_\_\_\_\_  
City, State, Zip Las Vegas NV 89173  
Telephone: 7027640001  
Email Address: Dirofcomp@yahoo.com  
Self-Represented

**DISTRICT COURT      CLARK COUNTY, NEVADA    Case No. A-21-840526 - C**  
**CLARK COUNTY, NEVADA      Case No. A-21-840526 - C**  
**Dept 8**

**AFFIDAVIT OF SERVICE**

*(this form is to be completed by the person who serves the document)*

I, (name of person who served the documents) J Jones Clark County Sheriffs Depatment, declare  
**(complete EVERY SECTION below)**:

**I am not a party to or interested in this action and I am over 18 years of age.**

9.      ***What Documents You Served.*** I served a copy of the  
Complaint for Compensation and Court Issued Summons

10. ***Who You Served.*** I served the Defendant Martin Condominium Unit Owners Association by  
serving First Residential Financial

11. ***When You Served.***      I personally served the documents on 12:00 hour of  
(time)(day) December 7, 2021

12. ***Where You Served.*** I personally delivered and left the documents with  
**The Party to the Case.** I served the documents on the party at the location below.  
*(complete the details below)*

Name of Person M Mendo First Residential Financial Services

Address Where Served 8290 Arville Street Las Vegas, NV 89139

**I am not required to be licensed under Chapter 648 of the Nevada Revised Statutes or another provision of law because I am not engaged in the business of serving legal process within the state of Nevada.**

**I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT THE FOREGOING IS TRUE AND CORRECT.**

DATED (month) December (day) 7, 20 21.

Server's Signature: ▶ /S/ J Jones Clark County Sheriffs Department

County Sheriffs Department

Server's Phone Number (702) 455-5400

IN THE SUPREME COURT OF THE STATE OF NEVADA

Wesley Rusch \_\_\_\_\_,  
Appellant, Supreme Court

vs.

Martin CUOA \_\_\_\_\_,  
Respondent. District Court Case No. A-21-  
840526-C

### **APPELLANT'S INFORMAL BRIEF**

**INSTRUCTIONS:** If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, *see* NRAP 28(k), with the Nevada Supreme Court on or before the due date, *see* NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

**HOW TO FILL OUT THIS FORM:** This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

**WHERE TO FILE THE BRIEF:** You may submit your brief for filing in person or by mail.

**To file your brief in person:** Briefs may be submitted for filing Monday through Friday, 8:00 a.m. to 4:00 p.m.

**Carson City:** Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, 89701.

**Las Vegas:** Place your brief in the Clerk's Office Drop Box at the Las Vegas courthouse for the Nevada Appellate Courts, 408 East Clark Avenue, Las Vegas, Nevada, 89101.

Informal Brief Form, October 2017

To file your brief by mail: Mail the brief to the Clerk of the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada 89701. Your brief must be postmarked on or before the due date.

You must file the original brief and 1 copy with the clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your brief, you must file the original form and 2 copies and include a self-addressed, stamped envelope. Documents cannot be faxed or emailed to the Supreme Court Clerk's Office.

Copies of the brief must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also include a proper certificate of service or complete the certificate that is attached to the informal brief form.

CAUTION: Pro se parties are prohibited from representing other parties. A pro se party may not complete a brief on behalf of other parties. Pro se parties may collaborate on their briefs, however, provided that if one brief is submitted on behalf of multiple pro se parties, each party must sign and date the brief to confirm that he or she has participated in the preparation of the brief and, by his or her signature, joins in the arguments and representations contained therein.

**Judgment or Order You Are Appealing.** List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
October 18 2022	All pending motions

**Notice of Appeal.** Give the date you filed your notice of appeal in the district court: \_\_\_\_\_ September 19 2022 \_\_\_\_\_

**Related Cases.** List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court

**Pro Bono Counsel.** Would you be interested in having pro bono counsel assigned to represent you in this appeal?

Yes      No

**NOTE:** If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

**Statement of Facts.** Explain the facts of your case. (Your answer must be provided in the space allowed.)

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The **Martin HOA's agent Red Rock did not comply with NRS 116.31162 et seq** and CCR 17.2 when they sold Rusch and Longboy's home

### Notice of Delinquent Assessments

Before starting the foreclosure, the **HOA must mail a notice of delinquent assessment to the homeowner**, which states:

the **amount of the assessments and other sums that are due**  
a description of the unit against which the lien is imposed, and  
the name of the record owner of the unit. (Nev. Rev. Stat. § 116.31162).

**NRS 116.31162 specifically provides that: Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.**

Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the **association may foreclose its lien by sale after all of the following occur:**

(a) **The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the**

**assessments and other sums which are due** *The Martin Failed to do this.* in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) **Not less than 30 days after mailing the notice of delinquent assessment** pursuant to paragraph (a), the association or other person conducting the sale **has executed and caused to be recorded, with the county recorder of the county** *The Martin failed to do this* in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU  
COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE**

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.



2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.
3. The period of 90 days begins on the first day following:
  - (a) The date on which the notice of default is recorded; or
  - (b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit, whichever date occurs later.
4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:
  - (a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or
  - (b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608)

**No Notice of the August 10 Sale as required by Nevada Law**

**Rusch did not receive any written or oral notice of a proposed sale of his property . Rusch first learned of the sale by a call from an attorney's office. Therefore the sale was illegal and Rusch and Longboy must be compensated.**

## Declaration of Wesley A Rusch

Declarant has personal knowledge of the following and being deposed and sworn states under penalty of perjury under the Laws of the State of Nevada, as follow:

I am over the age of Eighteen.

That myself and Oliver B Longboy, are the two individuals who purchased the real property commonly known as 4471 Dean Martin, Apt 2206, Las Vegas NV 89103.

We own no other property and have no other place to live.

Hollyvale Rental Holdings, LLC is based on information and belief an entity that speculates in real estate. They are not a real person and do not need a place to live.

On the other hand Rusch and Longboy are two individuals who are two real people who need a place to live.

Neither Rusch or Longboy received any notice of any proposed or ported auction of their property for August 10, 2017. Red Rock as agent for the Martin violated Nevada law by selling their property without complying with Nevada law. The sale therefore must be voided and rescinded and the property returned to its rightful owners Rusch and Longboy.

Our real property was sold at auction purportedly for delinquent HOA fees on August 10, 2017. When in fact the Martin owed Rusch more than the HOA fees. On about June 29 a sprinkler pipe broke in the unit at the end of the 22<sup>nd</sup> floor causing water to flow down the hallway and into Rusch's unit.. According to Nigro there was water in Rusch's walls that had to be replaced. The Martin failed to mitigate the damage by not opening the sliding glass door to allow the water to flow down the side of the building instead of down the hall. The Martin also let the water flow for several hours before turning off the water. Had the Martin done either of the foregoing Rusch's Condo would not have suffered damage. As a consequence, Rusch was required to relocate for nearly four months while Nigro repaired his unit. Nigro did not even complete the job and Rusch had to hire his own contractor to complete the job. Rusch incurred expenses in excess of \$25,000 as a result thereof. Rusch therefore claims that amount as an offset to his HOA fees and therefore does not owe the Martin any money and in fact the Martin owes Rusch money.

That neither myself nor Oliver B Longboy had received any notice of the impending HOA sale of our real property.

March 1, 2022

FURTHER DECLARANT SAVETH NAUGHT

/S/ Wesley Rusch

WESLEY A RUSCH

**The sales of Rusch's condo was in violation of Nevada Law. Red Rock was required to comply with Nevada Law and they did not therefore the sale is VOID and the sale must be reversed and Rusch must be returned to his condo. Therefore the possession of the Martin**

**condo must be restored to Rusch and Longboy immediately No Notice of the August 10 Sale  
as required by Nevada Law**

Respectfully Submitted

/s/ Wesley Rusch

Wesley

Rusch \_\_\_\_\_

—

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[illegible]

**Statement of District Court Error.** Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed.)

\_\_\_\_\_Plaintiffs have been homeless ever since moving from hotel to hotel during a pandemic and need to be compensated for their damages.

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[illegible]

[illegible]





## **CERTIFICATE OF SERVICE**

I certify that on the date indicated below, I served a copy of this completed informal brief form upon all parties to the appeal as follows:

By personally serving it upon him/her; or

By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

Wedgewood 2320 Potosi Street, Suite 130 Las Vegas, Nevada 89146 Cell: (702) 467-3976

[ntrautman@WEDGEWOOD-INC.COM](mailto:ntrautman@WEDGEWOOD-INC.COM)

DATED this \_\_\_8th\_\_\_ day of \_\_\_July\_\_\_\_\_, 20\_\_22\_\_.

\_\_\_\_\_/S/Wesley Rusch  
Signature of Appellant

\_\_Wesley Rusch\_\_\_\_\_  
Print Name of Appellant

\_\_\_\_PO Box 30907

Address

Law Vegas NV 89173

\_\_\_\_\_  
City/State/Zip

\_\_702 764 0001

\_\_\_\_\_  
Telephone



IN THE SUPREME COURT OF THE STATE  
OF NEVADA

Supreme Court No. \_

District Court Case No. A-21-840526-C

TO: \_\_\_\_\_  
Court Reporter Name

Wesley Rusch requests preparation of a transcript of the proceedings before  
the district court, as follows:

Judge or officer hearing the trial or hearing: Allf, Nancy D

Portions of the transcript requested: Entire Transcript

Number of copies required: 3

Name of person requesting  
transcripts Wesley Rusch

Address PO box 30907  
City/State/Zip Las Vegas NV  
89173

Telephone number 7027640001

**CERTIFICATION**

I certify that on this date I ordered these transcripts from the court reporter(s) named above by  
mailing or delivering this form to the court reporter(s) and I paid the required deposit.

Signature /S/ Wesley Rusch

Date August 1 2022

**CERTIFICATION**

I certify that on the date indicated below, I served a copy of this completed transcript request form upon the court reporter(s) and all parties to the appeal:

By personally serving it upon him/her; or

By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail): MARC S. CWIK, ESQ.

LEWIS BRISBOIS BISGAARD & SMITH LLP

6385 S. Rainbow Boulevard, Suite 600 Las Vegas, Nevada 89118

DATED this 31st day of October, 2022.

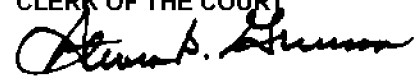
Signature /S/ Wesley Rusch

Print Name Wesley Risch

Address PO Box 30907

City/State/Zip Las Vegas NV 89173

Telephone number 7027640001



Wesley Rusch

Dirofcomp@yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual

Plaintiffs,

Case No. A-20-826568-C  
Case No. A-21-840526-C

Dept 27

MOTION FOR RECONSIDERATION RE ORDER RE  
VEXATIOUS LITIGANT

vs

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, DefendantP

**Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint  
against the Martin Condominium Unit Owners Association seeking  
compensation for their wrongful and illegal acts.**

## **WESLEY RUSCH IS NOT A VEXATIOUS LITIGANT**

In Nevada, a “vexatious litigant” has been defined as one “who repeatedly files

**frivolous lawsuits.”** *See Peck v. Crouser*, 129 Nev. 120, 122, 295 P.3d 586, 587 (2013)

(citing Black’s Law Dictionary 952 (8th ed. 2004)).

The Subject Property was foreclosed upon by Martin CUOA and sold at a foreclosure sale conducted by RRFS *Without the legally required notice* on behalf of Martin CUOA.

Plaintiff has file a complaint with the following causes of actions which is not frivolous

### **Sale of Rusch condo is was in violation of the Martins CCRs and Nevada Law**

Plaintiff is seeking **damages** from the following events

#### **First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. the Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either tum off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

### **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

**The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

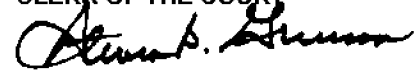
*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**THE TWO COMPLAINTS RUSCH FILED WERE IN NO WAY FRIVOLOUS IN NATURE BUT RATHER AN ATTEMPT TO RECEIVE COMPENSATION RUSCH SUSTAINED AS A RESULT OF THE MARTINS WRONGFUL AND ILLEGAL ACTIONS.**

Respectfully Submitted

/S/ Wesley Rusch



Wesley Rusch

Dirofcomp@yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual

Plaintiffs,

Case No. A-20-826568-C  
Case No. A-21-840526-C

Dept 27

MOTION FOR RECONSIDERATION

VS

**REQUEST FOR HEARING**

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, DefendantP

Plaintiff seeks reconsideration based on **decision being clearly erroneous**

**Plaintiffs is not a vexatious litigant as HE HAS NOT FILED MULTIPLE LAWSUITS WITHOUT MERIT.**

**PLAINTIFFS LAWSUITS HAVE BEEN WITH MERIT AS DISCUSSED  
BELOW AND THE PLAINTIFFS SHOULD HAVE BEEN AWARDED  
COMPENSATION YEARS AGO.**

Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint against the  
Martin Condominium Unit Owners Association seeking compensation for their wrongful  
and illegal acts.

The Martin was served by serving their Agent for Service of Process First Residential Financial. Affidavit is attached heretofore and incorporated by this reference.

**The Martin failed to respond to the complaint.**

## **PLAINTIFFS SEEK COMPENSATION *NOT POSSESSION***

Plaintiffs hereby moves that this court to decide this case based on the **TRUE FACTS and LAW** and not on the **FALSE and MISLEADING STATEMENTS** being constantly made by the MARTIN including their orders which also contain **FALSE AND MISLEADING STATEMENTS**.

This case is about **Recovery for Damages** Plaintiffs have suffered as a result of the MARTIN's actions and inactions.

## **THE COURT IS INCORRECT REGARDING THE REQUIREMENTS FOR A MOTION FOR RECONSIDERATION.**

### **LEGAL STANDARD**

#### **A Motion for Reconsideration Standard.**

The Nevada Supreme Court has explained that “[o]nly in very rare instances in which **new issues of fact or law are raised supporting a ruling contrary to the ruling already reached** should a motion for rehearing be granted.” *See Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) (emphasis added); *see also Masonry & Tile Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997) (reconsideration is appropriate only where “substantially different evidence is subsequently introduced or **the decision is clearly erroneous**”).



The motion must request a substantive alteration of a judgment, not merely a correction of a clerical error or relief of a type wholly collateral to a judgment. *Id.* at 582. The grounds for filing a motion under NRCP 59(e) include **correcting manifest errors of law or fact**, newly discovered or previously unavailable evidence, **the need to prevent a manifest injustice**, *See Allstate Insurance Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011) (discussing *FRCP 59*, the federal counterpart to NRCP 59). The Martin states the following in their papers:

Dismissal is appropriate under NRCP 12(b)(5) where the allegations in the Complaint, taken at “face value,” and construed favorably in the Plaintiff’s behalf, **fail to state a cognizable claim**. *See Morris v. Bank of Am.*, 110 Nev. 1274, 886 P.2d 454 (1994); *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008).

A district court is to **accept the plaintiff’s factual allegations as true**, but the **allegations must still be legally sufficient to constitute the elements of the claim(s) asserted**. *See Malfabon v. Garcia*, 111 Nev. 793, 796, 898 P.2d 107, 108 (1995). The test for determining whether the allegations of a complaint are **sufficient to assert a claim for relief is whether the allegations give fair notice of the nature and basis of a legally sufficient claim and the relief requested**. *Ravera v. City of Reno*, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984).

**Plaintiff’s Complaint have set forth a valid claim against the Martin of which the Martin has offered no defense as it has NO DEFENSE.**

**The Martin has admitted they were at fault for the flood damage that caused Plaintiffs to vacate their condo for over three months so that Nigro could repair the condo.**

**The Martin has admitted that Red Rock sold Plaintiff's Condo in violation of Nevada Law**

The Martin did not comply with the Martin CCRs NRS22.116 et seq when it sold the property, There was no notice nor demand letter; a clear violation of the constitutional right to due process of law. **The Martin has produced no notice as there was no notice to produce.**

It is obvious from that Defendant's arguments that they are confused regarding the nature of this case.

There are really two causes of action causing significant damages to Plaintiffs.

Furthermore the complaint requests **compensation for damages.**

## **THE MARTIN FAILED TO COMPLY WITH NEVADA LAW**

### **HOA Boards Beware: Nevada Courts Require Strict Statutory Compliance to Lien and Foreclosure**

Collecting assessments is a vital function to fund the HOA's activities. It is unfair for some owners to avoid paying their fair share, and to have the other owners shoulder their burden. Recognizing this, the Legislature has granted Nevada HOAs the powerful tools to lien and foreclose under the Act. However, with those powerful tools comes the obligation to closely comply with each and every requirement of the Act. It is implicit that HOAs must also closely follow their own governing documents

(CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

Because of the technical nature of the Act and the courts' apparent deference to err in favor of due process protections for HOA owners (not too dissimilar from the protections typically afforded to California tenants in unlawful detainer proceedings), the Act is fertile ground for mistakes. **These recent cases make clear that even minor or technical violations can invalidate the lien and foreclosure process**, and add delay and additional expense to the collection process.

#### Sale of Plaintiff's condo was in violation of the Martins CCRs and Nevada Law

Plaintiff is seeking **damages** from the following events

#### **First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. The Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either turn off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to**

**vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

**Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 and CCR 17.2**

**The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

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*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**THE COURT SHOULD GRANT PLAINTIFF'S SUMMARY**

## JUDGMENT

NRCP 56 provides the following: "The court shall grant summary judgment if the movant shows that there is **no genuine dispute as to any material fact** and the movant is entitled to **judgment as a matter of law**. The court should state on the record the reasons for granting or denying the motion." **There is no genuine dispute as to the Flood Damages and the Wrongful Sale of Plaintiff's Condo therefore Summary Judgment must be awarded to Plaintiffs.**

The Martin states that This Court finds that Plaintiffs failed to present any credible evidence that RRFS failed to give proper notice or otherwise failed to properly conduct the foreclosure on behalf of Martin CUOA. **THIS ARGUMENT MAKES NO SENSE. HOW DO YOU PROVE A NEGATIVE. THE MARTIN DID NOT GIVE NOTICE!! LET THE MARTIN PROVE THAT RRFS COMPLIED WITH THE LAW. THEY HAVE NOT DONE SO BECAUSE THEY ARE UNABLE TO DO SO CAUSE THE MARTIN KNOWS RRFS SOLD THE CONDO IN VIOLATION OF NEVADA LAW.**

**Furthermore the Martin provides no Declaration to support any of their purported "Facts"**

**Plaintiffs are tired of moving from hotel to hotel and eating out for every meal. It**

**is about time for the court to compensate Plaintiffs for the wrongful actions of the Martin selling their home without notice in violation of Nevada Law and their Constitutional Right of Due Process of Law.**

## **POINTS AND AUTHORITIES**

### **Motion to reconsider**

A motion for reconsideration typically asks the deciding court to reconsider its decision due to the court's failure to review specific legal arguments.

The Martin does not deny that Plaintiffs have file a valid Motion to Reconsider

A motion for reconsideration typically asks the deciding court to reconsider its decision due to the **court's failure to review specific legal arguments**. Alternatively, perhaps the **court misconstrued the argument presented**. Filing a motion for reconsideration allows the moving party to clarify the legal arguments and possibly change the outcome of the case.

**Rule 2.24. Rehearing of motions.**

(a) No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties.

(c) If a motion for rehearing is granted, the court may make a final disposition of the cause without reargument or may reset it for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

Motions for reconsideration are essential litigation tools. Practitioners need not feel overly pessimistic about the odds for success if they have reasonable grounds for the motion.

Motions for reconsideration are an opportunity to **advance the correct adjudication of a matter.**

Where a **mistake has truly occurred** or you feel the **court missed a critical point**, seize the opportunity to get your case back on track. **Judicial economy favors correction of mistakes** as early as possible, before costly and time-consuming appeals begin. Trial courts are interested in avoiding or correcting mistakes. A thoughtfully presented motion for reconsideration could be just the ticket.

Be sure to cite the specific "causes" on which you are relying.

That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is **contrary to law**;

That **substantial justice has not been done.**

**The Martin does not deny that CASES SHOULD BE DECIDED ON THEIR**  
**MERITS**

*What does on the Merits Mean by Dale Marshall*

Last Modified Date: October 20, 2020

“On the merits” is a term that has its roots in the law: a judge, having reviewed the materials relevant to a lawsuit, may render a verdict based not on issues of procedure or other technicalities, but strictly on the facts introduced into evidence and the law as it applies to those facts. A judge who decides a case on the merits considers that any technical or procedural issues that have been raised are either dealt with or irrelevant. The purpose of deciding cases in this way is to ensure that justice is done, rather than reward or punish one of the parties unfairly because of adherence to, or failure to follow, procedural requirements.

**THE FOLLOWING ARE NEW FACTS SUBSEQUENT TO THE HEARING!**

**Wesley Rusch and Oliver Longboy Plaintiffs “hereinafter Plaintiffs” object to the Courts Orders on the grounds that they contains FALSE and MISSING STATEMENTS. It is apparent that the court never read the orders before signing them otherwise they would have had seen the blatant errors therein. The Martin does not deny the false and misleading statements container therein.**

It is obvious from the order that Defendant's are confused regarding the nature of this case.



The Martin does not deny the following

HOA Boards Beware: Nevada Courts Require Strict Statutory Compliance to Lien and Foreclose

Collecting assessments is a vital function to fund the HOA's activities. It is unfair for some owners to avoid paying their fair share, and to have the other owners shoulder their burden. Recognizing this, the Legislature has granted Nevada HOAs the powerful tools to lien and foreclose under the Act. However, with those powerful tools comes the obligation to closely comply with each and every requirement of the Act. it is implicit that HOAs must also closely follow their own governing documents (CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

Because of the technical nature of the Act and the courts' apparent deference to err in favor of due process protections for HOA owners (not too dissimilar from the protections typically afforded to California tenants in unlawful detainer proceedings), the Act is fertile ground for mistakes. **These recent cases make clear that even minor or technical violations can invalidate the lien and foreclosure process,** and add delay and additional expense to the collection process.

The Martin does not deny that the Sale of Plaintiffs condo is void

Plaintiff is seeking **damages** from the following events

**First Cause the Flooding**

That on or about June 29, 2015, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran ythroughout the entire floor where the Subject Property was located. the Martin was informed of the water pipe

busting shortly after it happened. The Martin failed to either turn off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units. That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs' personal property. Furthermore, the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part. Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property far exceeded any monthly assessments.

## **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

### **Notice of Delinquent Assessments**

Before starting the foreclosure, the HOA must mail a notice of delinquent assessment to the homeowner, which states:

the amount of the assessments and other sums that are due  
a description of the unit against which the lien is imposed, and  
the name of the record owner of the unit. (Nev. Rev. Stat. § 116.31162).

NRS 116.31162 specifically provides that: Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the **association may foreclose its lien by sale after all of the following occur:**

(a) **The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due** *The Martin Failed to do this.* in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) **Not less than 30 days after mailing the notice of delinquent assessment** pursuant to paragraph (a), the association or other person conducting the sale **has executed and caused to be recorded, with the county recorder of the county** *The Martin failed to do this* in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD  
LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE**

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community;

or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608)

**The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**Therefore Defendant's motions and orders must be stricken and judgment entered in favor of Plaintiffs**

**THE COURT HAS FAILED TO ADDRESS THE ISSUES THAT PLAINTIFFS RAISED LISTING THE FALSE AND MISLEADING STATEMENTS PLACED IN THEIR ORDER WHICH PLAINTIFFS WERE NOT ALLOWED TO REVIEW BEFORE THE MARTIN SUBMITTED SUCH ORDERS TO THE**

## COURT

4. The Subject Property was foreclosed upon by Martin CUOA and sold at a foreclosure sale **WITHOUT NOTICE AND IN VIOLATION OF MARTINS CCRs AND NEVADA LAW** conducted by RRFS on behalf of Martin CUOA related to Plaintiffs' being delinquent on paying their monthly assessments, late fees, and their fines they were assessed as residents at The Martin. Per publicly-available records, the foreclosure sale took place on August 10, 2017 and the Foreclosure Deed was recorded on October 17, 2017.

5. This Court finds that prior to the foreclosure, RRFS provided various required notices to Plaintiffs, including but not limited to, the amount of Plaintiffs' delinquency, Martin CUOA's lien, Martin CUOA's intent to proceed with foreclosure of the lien, and notice of the foreclosure sale. **HOWEVER RRFS DID NOT PROVIDE THE LEGALLY REQUIRED NOTICE FOR THE AUGUST 10 SALE**

6. This Court finds that prior to the foreclosure being completed, both Plaintiffs filed voluntary petitions for bankruptcy and received discharges of the debt owing to Martin CUOA. **HOWEVER THE MARTIN TOOK MORE MONEY THAN THEY WERE ENTITLED TO AS THOSE DEBTS TO THE MARTIN WERE DISCHARGED IN BANKRUPTCY**

7. This Court finds that Plaintiffs **PRESENTED** credible evidence that RRFS failed to give proper notice or otherwise failed to properly conduct the foreclosure on behalf of Martin CUOA. **THERE WAS NO NOTICE AND NO COMPLAINT WITH MARTINS CCRs**

**AND NEVADA LAW.**

8. This Court finds that on February 22, 2018, Plaintiffs DID NOT receive the excess proceeds from the foreclosure sale. **AS THE MARTIN WITHOUT AUTHORIZATION GAVE THE CHECK TO BRYAN NADDAFI'S OFFICE WHO WITHOUT AUTHORIZATION CASHED THE CHECK.**
9. This Court finds that on February 22, 2018, prior to NOT receiving the excess proceeds, Plaintiffs executed a Disbursement and Indemnification Agreement prepared by RRFS which noted the foreclosure resulted from Plaintiffs' failure to pay Martin CUOA's assessments, fees and costs, including related collection fees and costs, and indemnified and released RRFS with regard to all claims related to distribution of the Excess Funds and claims arising out of or in connection with the sale of the Subject Condominium. **THIS RELEASE IS NULL and VOID AS THE MARTIN NEVER GAVE THE PROCEEDS TO PLAINTIFF AND THE RELEASE IS A FORM OF EXTORTION AS THE FUNDS RIGHTLY BELONGED TO PLAINTIFF**
10. This Court further finds that when executing the Disbursement and Indemnification Agreement, Plaintiffs **DID NOT** send a letter to their attorney, Bryan Naddafi, which stated the following: "Bryan, Please acknowledge receipt and give Red Rock Koch & Scow OK to distribute funds to me today. Wes." **THIS STATEMENT IS FALSE AND THE MARTIN DID NOT DISTRIBUTE THE PROCEEDS TO RUSCH AS INSTRUCTED**
11. This Court further finds that when Plaintiffs **DID NOT DISTRIBUTE THE PROCEEDS TO RUSCH AS INSTRUCTED**

**This Court further finds that when Plaintiffs never accepted the excess  
proceeds of the foreclosure sale from RRFS,**



Declaration of Wesley A Rusch

Declarant has personal knowledge of the following and being deposed and sworn states under penalty of perjury under the Laws of the State of Nevada, as follow:

1. I am over the age of Eighteen.
2. That myself and Oliber B Longboy, are the two individuals who purchased the real property commonly known as 4471 Dean Martin, Apt 2206, Las Vegas NV 89103.
3. We own no other property and have no other place to live.
4. Hollyvale Rental Holdings, LLC is based on information and belief an entity that speculates in real estate. They are not a real person and do no need a place to live.
5. On the other hand Rusch and Longboy are two individuals who are two real people who need a place to live.
6. Neither Rusch or Longboy received any notice of any proposed or ported auction of their property for August 10, 2017. Redrock as agent for the Martin violated Nevada law by selling their property without complying with Nevada law.

7. Our real property was sold at auction purportedly for delinquent HOA fees on August 10, 2017. When in fact the Martin owed Rusch more than the HOA fees. On about June 29 a sprinkler pipe broke in the unit at the end of the 22<sup>nd</sup> floor causing water to flow down the hallway and into Rusch's unit.. According to Nigro there was water in Rusch's walls that had to be replaced. The Martin failed to mitigate the damage by not opening the sliding glass door to allow the water to flow down the side of the building instead of down the hall. The Martin also let the water flow for several hours before turning off the water. Had the Martin done either of the foregoing Rusch's Condo would not have suffered damage. As a consequence, Rusch was required to relocate for nearly four months while Nigro repaired his unit. Nigro did not even complete the job and Rusch had to hire his own contractor to complete the job. Rusch incurred expenses in excess of \$25,000 as a result thereof. Rusch therefore claims that amount as an offset to his HOA fees and therefore does not owe the Martin any money and in fact the Martin owes Rusch money.
8. That neither myself nor Oliver B Longboy had received any notice of the impending HOA sale of our real property.

September 1 2022  
FURTHER DECLARANT SAVETH NAUGHT  
/S/ Wesley Rusch  
WESLEY A RUSCH

There is no basis to award The Martin Summary Judgment Rather Plaintiffs should be awarded summary judgment as to the valid claims have filed against the Martin for which they have offered no defense

**It is about time to resolve the case in Plaintiff's favor as the Martin has no defense to any of their claims listed in the complaint and therefore PLAINTIFF MUST BE AWARDED JUDGMENT**

Respectfully Submitted

/S/ Wesley Rusch  
Wesley Rusch

---

Your Name: Wesley Rusch and Oliver Longboy  
Address: PO Box 30907\_\_\_\_\_  
City, State, Zip Las Vegas NV 89173  
Telephone: 7027640001  
Email Address: Dirofcomp@yahoo.com  
Self-Represented

**DISTRICT COURT      CLARK COUNTY, NEVADA    Case No. A-21-840526 - C**  
**CLARK COUNTY, NEVADA      Case No. A-21-840526 - C**  
**Dept 8**

**AFFIDAVIT OF SERVICE**

*(this form is to be completed by the person who serves the document)*

I, *(name of person who served the documents)* J Jones Clark County Sheriffs Depatment, declare  
***(complete EVERY SECTION below)***:

**I am not a party to or interested in this action and I am over 18 years of age.**

9.      ***What Documents You Served.*** I served a copy of the  
Complaint for Compensation and Court Issued Summons

10. ***Who You Served.*** I served the Defendant Martin Condominium Unit Owners Association by  
serving First Residential Financial

11. ***When You Served.***      I personally served the documents on 12:00 hour of  
*(time)(day)* December 7, 2021

12. ***Where You Served.*** I personally delivered and left the documents with  
**The Party to the Case.** I served the documents on the party at the location below.  
*(complete the details below)*

Name of Person M Mendo First Residential Financial Services

Address Where Served 8290 Arville Street Las Vegas, NV 89139

**I am not required to be licensed under Chapter 648 of the Nevada Revised Statutes or another provision of law because I am not engaged in the business of serving legal process within the state of Nevada.**

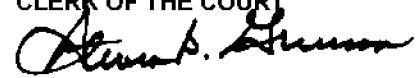
**I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT THE FOREGOING IS TRUE AND CORRECT.**

DATED (month) December (day) 7, 20 21.

Server's Signature: ▶ /S/ J Jones Clark County Sheriffs Department

County Sheriffs Department

Server's Phone Number (702) 455-5400



Wesley Rusch

Dirofcomp@yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual

Plaintiffs,

Case No. A-20-826568-C  
Case No. A-21-840526-C

Dept 27

vs

MOTION FOR RECONSIDERATION  
Just the Facts

**REQUEST FOR HEARING**

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, Defendant

**Plaintiff seeks reconsideration based on decision being clearly erroneous**

**Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint against the Martin Condominium Unit Owners Association seeking compensation for their wrongful and illegal acts.**

The Martin was served by serving their Agent for Service of Process First Residential Financial. Affidavit is attached heretofore and incorporated by this reference.

**The Martin failed to respond to the complaint. Therefore a default judgment is in order.**

## **PLAINTIFFS SEEK COMPENSATION** *NOT POSSESSION*

This case is about **Recovery for Damages** Plaintiffs have suffered as a result of the MARTIN's actions and inactions.

A district court is to **accept the plaintiff's factual allegations as true**, but the **allegations must still be legally sufficient to constitute the elements of the claim(s) asserted**. *See Malfabon v. Garcia*, 111 Nev. 793, 796, 898 P.2d 107, 108 (1995). The test for determining whether the allegations of a complaint are **sufficient to assert a claim for relief is whether the allegations give fair notice of the nature and basis of a legally sufficient claim and the relief requested**. *Ravera v. City of Reno*, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984).

**Plaintiff's Complaint have set forth a valid claim against the Martin of which the Martin has offered no defense as it has NO DEFENSE.**

**The Martin has admitted they were at fault for the flood damage that caused Plaintiffs to vacate their condo for over three months so that Nigro could repair the condo.**

**The Martin has admitted that Red Rock sold Plaintiff's Condo in violation of Nevada Law**

**The Martin did not comply with the Martin CCRs NRS22.116 et seq when it sold the property,**

There was no notice nor demand letter; a clear violation of the constitutional right to due process of law. **The Martin has produced no notice as there was no notice to produce.**

It is obvious from that Defendant's arguments that they are confused regarding the nature of this case.

There are really two causes of action causing significant damages to Plaintiffs.

Furthermore the complaint requests **compensation for damages.**

### **THE MARTIN FAILED TO COMPLY WITH NEVADA LAW**

#### **Nevada Courts Require Strict Statutory Compliance to Lien and Foreclosure**

It is implicit that HOAs must also closely follow their own governing documents (CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

Because of the technical nature of the Act and the courts' apparent deference to err in favor of due process protections for HOA owners (not too dissimilar from the protections typically afforded to California tenants in unlawful detainer proceedings), the Act is fertile ground for mistakes. **These recent cases make clear that even minor or technical violations can invalidate the lien and foreclosure process.**

**Sale of Plaintiff's condo was in violation of the Martins CCRs and Nevada Law**



Plaintiff is seeking **damages** from the following events

### **First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. The Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either turn off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs' personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

### **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 and CCR 17.2**

**The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

## **THE COURT SHOULD GRANT PLAINTIFF'S SUMMARY JUDGMENT**

NRCP 56 provides the following: "The court shall grant summary judgment if the movant shows that there is **no genuine dispute as to any material fact** and the movant is entitled to **judgment as a matter of law**. The court should state on the record the reasons for granting or denying the motion." **There is no genuine dispute as to the Flood Damages and the Wrongful Sale of Plaintiff's Condo therefore Sumary Judgment must be awarded to Plaintiffs.**

**Plaintiffs are tired of moving from hotel to hotel and eating out for every meal. It is about time for the court to compensate Plaintiffs for the wrongful actions of the Martin selling their home without notice in violation of Nevada Law and their Constitutional Right of Due Process of Law.**

That substantial justice has not been done.

**The Martin does not deny that CASES SHOULD BE DECIDED ON THEIR MERITS**

**The Martin does not deny that the Sale of Plaintiffs condo is void**

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### **Notice of Delinquent Assessments**

Before starting the foreclosure, the **HOA must mail a notice of delinquent assessment to the homeowner**, which states:

**the amount of the assessments and other sums that are due**  
a description of the unit against which the lien is imposed, and  
the name of the record owner of the unit. (Nev. Rev. Stat. § 116.31162).

NRS 116.31162 specifically provides that: Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration

provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the **association may foreclose its lien by sale after all of the following occur:**

(a) **The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due** *The Martin Failed to do this.* in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) **Not less than 30 days after mailing the notice of delinquent assessment** pursuant to paragraph (a), the association or other person conducting the sale **has executed and caused to be recorded, with the county recorder of the county** *The Martin failed to do this* in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE**

(c) The unit's owner or his or her successor in interest **has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.**

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

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(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608)

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**Therefore Defendant's motions and orders must be stricken and judgment entered in favor of Plaintiffs**

Declaration of Wesley A Rusch

Declarant has personal knowledge of the following and being deposed and sworn states under penalty of perjury under the Laws of the State of Nevada, as follow:

1. I am over the age of Eighteen.
2. That myself and Oliber B Longboy, are the two individuals who purchased the real property commonly known as 4471 Dean Martin, Apt 2206, Las Vegas NV 89103.
3. We own no other property and have no other place to live.
4. On the other hand Rusch and Longboy are two individuals who are two real people who need a place to live.
5. Neither Rusch nor Longboy received any notice of any proposed or ported auction of their property for August 10, 2017. Red Rock as agent for the Martin violated Nevada law by selling their property without complying with Nevada law.
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fees. On on about June 29 a sprinkler pipe broke in the unit at the end of the 22<sup>nd</sup> floor causing water to flow down the hallway and into Rusch's unit.. According to Nigro there was water in Rusch's walls that had to be replaced. The Martin failed to mitigate the damage by not opening the sliding glass door to allow the water to flow down the side of the building instead of down the hall. The Martin also let the water flow for several hours before turning off the water. Had the Martin done either of the foregoing Rusch's Condo would not have suffered damage. As a consequence, Rusch was required to relocate for nearly four months while Nigro repaired his unit. Nigro did not even complete the job and Rusch had to hire his own contractor to complete the job. Rusch incurred expenses in excess of \$25,000 as a result thereof. Rusch therefore claims that amount as a an offset to his HOA fess and therefore does not own the Martin any money and in fact the Martin owes Rusch money.

7. That neither myself nor Oliver B Longboy had received any notice of the impending HOA sale of our real property.

September 1 2022  
FURTHER DECLARANT SAVETH NAUGHT  
/S/ Wesley Rusch  
WESLEY A RUSCH

**It is about time to resolve the case in Plaintiff's favor as the  
Martin has no defense to any of their claims listed in the  
complaint and therefore PLAINTIFF MUST BE AWARDED  
JUDGMENT**

Respectfully Submitted

/S/ Wesley Rusch  
Wesley Rusch

---

Your Name: Wesley Rusch and Oliver Longboy  
Address: PO Box 30907\_\_\_\_\_  
City, State, Zip Las Vegas NV 89173  
Telephone: 7027640001  
Email Address: Dirofcomp@yahoo.com  
Self-Represented

**DISTRICT COURT      CLARK COUNTY, NEVADA** Case No. A-21-840526 - C  
**CLARK COUNTY, NEVADA** Case No. A-21-840526 - C  
**Dept 8**

**AFFIDAVIT OF SERVICE**

*(this form is to be completed by the person who serves the document)*

I, *(name of person who served the documents)* J Jones Clark County Sheriffs Depatment, declare  
***(complete EVERY SECTION below)***:

**I am not a party to or interested in this action and I am over 18 years of age.**

9. ***What Documents You Served.*** I served a copy of the  
Complaint for Compensation and Court Issued Summons

10. ***Who You Served.*** I served the Defendant Martin Condominium Unit Owners Association by  
serving First Residential Financial

11. ***When You Served.*** I personally served the documents on 12:00 hour of  
*(time)(day)* December 7, 2021

12. ***Where You Served.*** I personally delivered and left the documents with

**The Party to the Case.** I served the documents on the party at the location below.  
*(complete the details below)*

Name of Person M Mendo First Residential Financial Services

Address Where Served 8290 Arville Street Las Vegas, NV 89139

**I am not required to be licensed under Chapter 648 of the Nevada Revised Statutes or another provision of law because I am not engaged in the business of serving legal process within the state of Nevada.**

**I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT THE FOREGOING IS TRUE AND CORRECT.**

DATED (month) December (day) 7, 20 21.

Server's Signature: ▶ /S/ J Jones Clark County Sheriffs Department

County Sheriffs Department

Server's Phone Number (702) 455-5400

1 **ORDM**

2 **DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**

4 \* \* \* \*

5 WESLEY RUSCH, an individual, and  
6 OLIVER LONGBOY, an individual,

7 Plaintiff(s),

8 vs.

9 THE MARTIN CONDOMINIUM UNIT  
10 OWNERS' ASSOCIATION, domestic  
11 non- profit; DOE Individuals I through X;  
12 and ROE Corporations and Organizations  
13 I through X,

14 Defendant(s).

CASE NO.: A-21-840526-C

DEPARTMENT 27

15 **ORDER DENYING PLAINTIFFS' MOTIONS**

16 **COURT FURTHER FINDS** after review that on June 30, 2022, Defendant's Motion to  
17 Dismiss was granted.

18 **COURT FURTHER FINDS** after review that on July 1, 2022, a Notice of Entry of  
19 Vexatious Litigant and Pre-Filing Order ("Pre-Filing Order") against Plaintiffs was filed.

20 **COURT FINDS** after review that Plaintiff filed a Motion for Reconsideration on  
21 November 11, 2022. A copy is attached as Exhibit 1.

22 **COURT FINDS** after review that Plaintiff filed a Motion for Reconsideration RE Order  
23 RE Vexatious Litigant ("Motion for Reconsideration Order Vexatious Litigant") on November  
24 11, 2022. A copy is attached as Exhibit 2.

25 **COURT FURTHER FINDS** after review that Plaintiff's Motion for Reconsideration  
26 violated the Pre-Filing Order.

27 **COURT FURTHER FINDS** after review that Plaintiff's Motion for Reconsideration  
28 Order Vexatious Litigant violated the Pre-Filing Order.

**THEREFORE, COURT ORDERS** for good cause appearing and after review that the Plaintiff's Motion for Reconsideration hereby **DENIED**.

**THEREFORE, COURT ORDERS** for good cause appearing and after review that the Plaintiff's Motion for Reconsideration Order Vexatious Litigant hereby **DENIED**.

**Dated this 21st day of November, 2022**

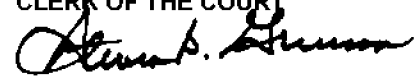
Nancy L Alf

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**129 A7C 9E31 61D5**  
**Nancy Allf**  
**District Court Judge**

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EXHIBIT 1



Wesley Rusch

Dirofcomp@Yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual

Plaintiffs,

Case No. A-20-826568-C

Case No. A-21-840526-C

Dept 27

MOTION FOR RECONSIDERATION

vs

**REQUEST FOR HEARING**

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, DefendantP

**Plaintiffs hereby request relief to file this PAPER**

**Plaintiff seeks reconsideration based on decision being clearly erroneous**

**Plaintiffs is not a vexatious litigant as HE HAS NOT FILED MULTIPLE LAWSUITS WITHOUT MERIT.**

**PLAINTIFFS LAWSUITS HAVE BEEN WITH MERIT AS DISCUSSED  
BELOW AND THE PLAINTIFFS SHOULD HAVE BEEN AWARDED  
COMPENSATION YEARS AGO.**

**Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint against the  
Martin Condominium Unit Owners Association seeking compensation for their wrongful  
and illegal acts.**



The Martin was served by serving their Agent for Service of Process First Residential Financial. Affidavit is attached heretofore and incorporated by this reference.

**The Martin failed to respond to the complaint.**

## **PLAINTIFFS SEEK COMPENSATION *NOT POSSESSION***

Plaintiffs hereby moves that this court to decide this case based on the **TRUE FACTS and LAW** and not on the **FALSE and MISLEADING STATEMENTS** being constantly made by the MARTIN including their orders which also contain **FALSE AND MISLEADING STATEMENTS**.

This case is about **Recovery for Damages** Plaintiffs have suffered as a result of the MARTIN's actions and inactions.

## **THE COURT IS INCORRECT REGARDING THE REQUIREMENTS FOR A MOTION FOR RECONSIDERATION.**

### **LEGAL STANDARD**

#### **A Motion for Reconsideration Standard.**

The Nevada Supreme Court has explained that “[o]nly in very rare instances in which **new issues of fact or law are raised supporting a ruling contrary to the ruling already reached** should a motion for rehearing be granted.” *See Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) (emphasis added); *see also Masonry & Tile Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997) (reconsideration is appropriate only where “substantially different evidence is subsequently introduced or **the decision is clearly erroneous**”).

The motion must request a substantive alteration of a judgment, not merely a correction of a clerical error or relief of a type wholly collateral to a judgment. *Id.* at 582. The grounds for filing a motion under NRCP 59(e) include **correcting manifest errors of law or fact**, newly discovered or previously unavailable evidence, **the need to prevent a manifest injustice**, *See Allstate Insurance Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011) (discussing *FRCP 59*, the federal counterpart to NRCP 59). The Martin states the following in their papers:

Dismissal is appropriate under NRCP 12(b)(5) where the allegations in the Complaint, taken at “face value,” and construed favorably in the Plaintiff’s behalf, **fail to state a cognizable claim**. *See Morris v. Bank of Am.*, 110 Nev. 1274, 886 P.2d 454 (1994); *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008).

A district court is to **accept the plaintiff’s factual allegations as true**, but the **allegations must still be legally sufficient to constitute the elements of the claim(s) asserted**. *See Malfabon v. Garcia*, 111 Nev. 793, 796, 898 P.2d 107, 108 (1995). The test for determining whether the allegations of a complaint are **sufficient to assert a claim for relief is whether the allegations give fair notice of the nature and basis of a legally sufficient claim and the relief requested**. *Ravera v. City of Reno*, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984).

**Plaintiff’s Complaint have set forth a valid claim against the Martin of which the Martin has offered no defense as it has NO DEFENSE.**

**The Martin has admitted they were at fault for the flood damage that caused**

**Plaintiffs to vacate their condo for over three months so that Nigro could repair the condo.**

**The Martin has admitted that Red Rock sold Plaintiff's Condo in violation of Nevada Law**

The Martin did not comply with the Martin CCRs NRS22.116 et seq when it sold the property, There was no notice nor demand letter; a clear violation of the constitutional right to due process of law. **The Martin has produced no notice as there was no notice to produce.**

It is obvious from that Defendant's arguments that they are confused regarding the nature of this case.

There are really two causes of action causing significant damages to Plaintiffs.

Furthermore the complaint requests **compensation for damages.**

### **THE MARTIN FAILED TO COMPLY WITH NEVADA LAW**

#### **HOA Boards Beware: Nevada Courts Require Strict Statutory Compliance to Lien and Foreclosure**

Collecting assessments is a vital function to fund the HOA's activities. It is unfair for some owners to avoid paying their fair share, and to have the other owners shoulder their burden. Recognizing this, the Legislature has granted Nevada HOAs the powerful tools to lien and foreclose under the Act. However, with those powerful tools comes the obligation to closely comply with each and every requirement of the Act. it is implicit that HOAs must also closely follow their own governing documents

(CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

Because of the technical nature of the Act and the courts' apparent deference to err in favor of due process protections for HOA owners (not too dissimilar from the protections typically afforded to California tenants in unlawful detainer proceedings), the Act is fertile ground for mistakes. **These recent cases make clear that even minor or technical violations can invalidate the lien and foreclosure process**, and add delay and additional expense to the collection process.

Sale of Plaintiff's condo was in violation of the Martins CCRs and Nevada Law

Plaintiff is seeking **damages** from the following events

### **First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. The Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either turn off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to**

**vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

**Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 and CCR 17.2**

**The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**THE COURT SHOULD GRANT PLAINTIFF'S SUMMARY**

## JUDGMENT

NRCP 56 provides the following: “The court shall grant summary judgment if the movant shows that there is **no genuine dispute as to any material fact** and the movant is entitled to **judgment as a matter of law**. The court should state on the record the reasons for granting or denying the motion.” **There is no genuine dispute as to the Flood Damages and the Wrongful Sale of Plaintiff's Condo therefore Summary Judgment must be awarded to Plaintiffs.**

The Martin states that This Court finds that Plaintiffs failed to present any credible evidence that RRFS failed to give proper notice or otherwise failed to properly conduct the foreclosure on behalf of Martin CUOA. **THIS ARGUMENT MAKES NO SENSE. HOW DO YOU PROVE A NEGATIVE. THE MARTIN DID NOT GIVE NOTICE!! LET THE MARTIN PROVE THAT RRFS COMPLIED WITH THE LAW. THEY HAVE NOT DONE SO BECAUSE THEY ARE UNABLE TO DO SO CAUSE THE MARTIN KNOWS RRFS SOLD THE CONDO IN VIOLATION OF NEVADA LAW.**

**Furthermore the Martin provides no Declaration to support any of their purported “Facts”**

**Plaintiffs are tired of moving from hotel to hotel and eating out for every meal. It**

**is about time for the court to compensate Plaintiffs for the wrongful actions of the Martin selling their home without notice in violation of Nevada Law and their Constitutional Right of Due Process of Law.**

## **POINTS AND AUTHORITIES**

### **Motion to reconsider**

A motion for reconsideration typically asks the deciding court to reconsider its decision due to the court's failure to review specific legal arguments.

The Martin does not deny that Plaintiffs have file a valid Motion to Reconsider

A motion for reconsideration typically asks the deciding court to reconsider its decision due to the **court's failure to review specific legal arguments**. Alternatively, perhaps the **court misconstrued the argument presented**. Filing a motion for reconsideration allows the moving party to clarify the legal arguments and possibly change the outcome of the case.

**Rule 2.24. Rehearing of motions.**

(a) No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties.

(c) If a motion for rehearing is granted, the court may make a final disposition of the cause without reargument or may reset it for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

Motions for reconsideration are essential litigation tools. Practitioners need not feel overly pessimistic about the odds for success if they have reasonable grounds for the motion.

Motions for reconsideration are an opportunity to **advance the correct adjudication of a matter.**

Where a **mistake has truly occurred** or you feel the **court missed a critical point**, seize the opportunity to get your case back on track. **Judicial economy favors correction of mistakes** as early as possible, before costly and time-consuming appeals begin. Trial courts are interested in avoiding or correcting mistakes. A thoughtfully presented motion for reconsideration could be just the ticket.

Be sure to cite the specific "causes" on which you are relying.

That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is **contrary to law**;

That **substantial justice has not been done.**



The Martin does not deny that CASES SHOULD BE DECIDED ON THEIR

## MERITS

### *What does on the Merits Mean by Dale Marshall*

Last Modified Date: October 20, 2020

“On the merits” is a term that has its roots in the law: a judge, having reviewed the materials relevant to a lawsuit, may render a verdict based not on issues of procedure or other technicalities, but strictly on the facts introduced into evidence and the law as it applies to those facts. A judge who decides a case on the merits considers that any technical or procedural issues that have been raised are either dealt with or irrelevant. The purpose of deciding cases in this way is to ensure that justice is done, rather than reward or punish one of the parties unfairly because of adherence to, or failure to follow, procedural requirements.

**THE FOLLOWING ARE NEW FACTS SUBSEQUENT TO THE HEARING!**

**Wesley Rusch and Oliver Longboy Plaintiffs “hereinafter Plaintiffs” object to the Courts Orders on the grounds that they contains FALSE and MISSING STATEMENTS. It is apparent that the court never read the orders before signing them otherwise they would have had seen the blatant errors therein. The Martin**

**does not deny the false and misleading statements container therein.**

It is obvious from the order that Defendant's are confused regarding the nature of this case.

The Martin does not deny the following

HOA Boards Beware: Nevada Courts Require Strict Statutory Compliance to Lien and Foreclose

Collecting assessments is a vital function to fund the HOA's activities. It is unfair for some owners to avoid paying their fair share, and to have the other owners shoulder their burden. Recognizing this, the Legislature has granted Nevada HOAs the powerful tools to lien and foreclose under the Act. However, with those powerful tools comes the obligation to closely comply with each and every requirement of the Act. it is implicit that HOAs must also closely follow their own governing documents (CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

Because of the technical nature of the Act and the courts' apparent deference to err in favor of due process protections for HOA owners (not too dissimilar from the protections typically afforded to California tenants in unlawful detainer proceedings), the Act is fertile ground for mistakes. **These recent cases make clear that even minor or technical violations can invalidate the lien and foreclosure process,** and add delay and additional expense to the collection process.

The Martin does not deny that the Sale of Plaintiffs condo is void

Plaintiff is seeking **damages** from the following events

**First Cause the Flooding**

That on or about June 29, 2015, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran ythroughout the entire floor where the Subject Property was located. the Martin was informed of the water pipe busting shortly after it happened. The **Martin failed to either tum off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

## **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

### **Notice of Delinquent Assessments**

Before starting the foreclosure, the **HOA must mail a notice of delinquent assessment to the homeowner,** which states:

the **amount of the assessments and other sums that are due**  
a description of the unit against which the lien is imposed, and

the name of the record owner of the unit. (Nev. Rev. Stat. § 116.31162).

NRS 116.31162 specifically provides that: Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the **association may foreclose its lien by sale after all of the following occur:**

(a) **The** association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, **a notice of delinquent assessment which states the amount of the assessments and other sums which are due** *The Martin Failed to do this.* in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) **Not less than 30 days after mailing the notice of delinquent assessment** pursuant to paragraph (a), the association or other person conducting the sale **has executed and caused to be recorded, with the county recorder of the county** *The Martin failed to do this* in which the common-interest community or any part of it is situated, a notice of default and

election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit, whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608)

### **The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of **\$25,442.92.***

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of **\$Four Million Dollars each for a total of \$Eight Million Dollars.***

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety*

*Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**Therefore Defendant's motions and orders must be stricken and judgment entered in favor of Plaintiffs**

**THE COURT HAS FAILED TO ADDRESS THE ISSUES THAT PLAINTIFFS RAISED LISTING THE FALSE AND MISLEADING STATEMENTS PLACED IN THEIR ORDER WHICH PLAINTIFFS WERE NOT ALLOWED TO REVIEW BEFORE THE MARTIN SUBMITTED SUCH ORDERS TO THE COURT**

4. The Subject Property was foreclosed upon by Martin CUOA and sold at a foreclosure sale **WITHOUT NOTICE AND IN VIOLATION OF MARTINS CCRs AND NEVADA LAW** conducted by RRFS on behalf of Martin CUOA related to Plaintiffs' being delinquent on paying their monthly assessments, late fees, and their fines they were assessed as residents at The Martin. Per publicly-available records, the foreclosure sale took place on August 10, 2017 and the Foreclosure Deed was recorded on October 17, 2017.

5. This Court finds that prior to the foreclosure, RRFS provided various required notices to Plaintiffs, including but not limited to, the amount of Plaintiffs' delinquency, Martin CUOA's lien, Martin CUOA's intent to proceed with foreclosure of the lien, and notice of the foreclosure sale. **HOWEVER RRFS DID NOT PROVIDE THE LEGALLY REQUIRED NOTICE FOR THE**

## AUGUST 10 SALE

6. This Court finds that prior to the foreclosure being completed, both Plaintiffs filed voluntary petitions for bankruptcy and received discharges of the debt owing to Martin CUOA. **HOWEVER THE MARTIN TOOK MORE MONEY THAN THEY WERE ENTITLED TO AS THOSE DEBTS TO THE MARTIN WERE DISCHARGED IN BANKRUPTCY**

7. This Court finds that Plaintiffs **PRESENTED** credible evidence that RRFS failed to give proper notice or otherwise failed to properly conduct the foreclosure on behalf of Martin CUOA. **THERE WAS NO NOTICE AND NO COMPLAINE WITH MARTINS CCRs AND NEVADA LAW.**

8. This Court finds that on February 22, 2018, Plaintiffs DID NOT receive the excess proceeds from the foreclosure sale. **AS THE MARTIN WITHOUT AUTHORIZATION GAVE THE CHECK TO BRYAN NADDAFT'S OFFICE WHO WITHOUT AUTHORIZATION CASHED THE CHECK.**

9. This Court finds that on February 22, 2018, prior to NOT receiving the excess proceeds, Plaintiffs executed a Disbursement and Indemnification Agreement prepared by RRFS which noted the foreclosure resulted from Plaintiffs' failure to pay Martin CUOA's assessments, fees and costs, including related collection fees and costs, and indemnified and released RRFS with regard to all claims related to distribution of the Excess Funds and claims arising out of or in connection with the sale of the Subject Condominium.



THIS RELEASE IS NULL and VOID AS THE MARTIN NEVER GAVE THE PROCEEDS TO PLAINTIFF AND THE RELEASE IS A FORM OF EXTORTION AS THE FUNDS RIGHTLY BELONGED TO PLAINTIFF

10. This Court further finds that when executing the Disbursement and Indemnification Agreement, Plaintiffs **DID NOT** sent a letter to their attorney, Bryan Naddafi, which stated the following: "Bryan, Please acknowledge receipt and give Red Rock Koch & Scow OK to distribute funds to me today. Wes." **THIS STATEMENT IS FALSE AND THE MARTIN DID NOT DISTRIBUTE THE PROCEEDS TO RUSCH AS INSTRUCTED**
11. This Court further finds that when Plaintiffs **DID NOT DISTRIBUTE THE PROCEEDS TO RUSCH AS INSTRUCTED**

**This Court further finds that when Plaintiffs never accepted the excess proceeds of the foreclosure sale from RRFS,**

Declaration of Wesley A Rusch

Declarant has personal knowledge of the following and being deposed and sworn states under penalty of perjury under the Laws of the State of Nevada, as follow:

1. I am over the age of Eighteen.
2. That myself and Oliber B Longboy, are the two individuals who purchased the real property commonly known as 4471 Dean Martin, Apt 2206, Las Vegas NV 89103.
3. We own no other property and have no other place to live.
4. Hollyvale Rental Holdings, LLC is based on information and belief an entity that speculates in real estate. They are not a real person and do no need a place to live.
5. On the other hand Rusch and Longboy are two individuals who are two real people who need a place to live.
6. Neither Rusch or Longboy received any notice of any proposed or ported auction of their property for August 10, 2017. Redrock as agent for the Martin violated Nevada law by selling their property without complying with Nevada law.

7. Our real property was sold at auction purportedly for delinquent HOA fees on August 10, 2017. When in fact the Martin owed Rusch more than the HOA fees. On about June 29 a sprinkler pipe broke in the unit at the end of the 22<sup>nd</sup> floor causing water to flow down the hallway and into Rusch's unit. According to Nigro there was water in Rusch's walls that had to be replaced. The Martin failed to mitigate the damage by not opening the sliding glass door to allow the water to flow down the side of the building instead of down the hall. The Martin also let the water flow for several hours before turning off the water. Had the Martin done either of the foregoing Rusch's Condo would not have suffered damage. As a consequence, Rusch was required to relocate for nearly four months while Nigro repaired his unit. Nigro did not even complete the job and Rusch had to hire his own contractor to complete the job. Rusch incurred expenses in excess of \$25,000 as a result thereof. Rusch therefore claims that amount as an offset to his HOA fees and therefore does not owe the Martin any money and in fact the Martin owes Rusch money.
8. That neither myself nor Oliver B Longboy had received any notice of the impending HOA sale of our real property.

September 1 2022  
FURTHER DECLARANT SAVETH NAUGHT  
/S/ Wesley Rusch  
WESLEY A RUSCH

There is no basis to award The Martin Summary Judgment Rather Plaintiffs should be awarded summary judgment as to the valid claims have filed against the Martin for which they have offered no defense

**It is about time to resolve the case in Plaintiff's favor as the Martin has no defense to any of their claims listed in the complaint and therefore PLAINTIFF MUST BE AWARDED JUDGMENT**

Respectfully Submitted

/S/ Wesley Rusch  
Wesley Rusch

---

Your Name: Wesley Rusch and Oliver Longboy  
Address: PO Box 30907 \_\_\_\_\_  
City, State, Zip Las Vegas NV 89173  
Telephone: 7027640001  
Email Address: Dirofcomp@yahoo.com  
Self-Represented

**DISTRICT COURT      CLARK COUNTY, NEVADA    Case No. A-21-840526 - C**  
**CLARK COUNTY, NEVADA                      Case No. A-21-840526 - C**  
**Dept 8**

**AFFIDAVIT OF SERVICE**

*(this form is to be completed by the person who serves the document)*

I, *(name of person who served the documents)* J Jones Clark County Sheriffs Department, declare  
***(complete EVERYSECTION below):***

**I am not a party to or interested in this action and I am over 18 years of age.**

9.      ***What Documents You Served.*** I served a copy of the  
Complaint for Compensation and Court Issued Summons

10. ***Who You Served.*** I served the Defendant Martin Condominium Unit Owners Association by  
serving First Residential Financial

11. ***When You Served.***                      I personally served the documents on 12:00 hour of  
*(time)(day)* December 7, 2021

12. ***Where You Served.*** I personally delivered and left the documents with  
**The Party to the Case.** I served the documents on the party at the location below.  
*(complete the details below)*

Name of Person M Mendo First Residential Financial Services

Address Where Served 8290 Arville Street Las Vegas, NV 89139

**I am not required to be licensed under Chapter 648 of the Nevada Revised Statutes or another provision of law because I am not engaged in the business of serving legal process within the state of Nevada.**

**I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT THE FOREGOING IS TRUE AND CORRECT.**

DATED (month) December (day) 7, 20 21.

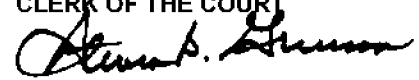
Server's Signature: ▶ /S/ J Jones Clark County Sheriffs Department

County Sheriffs Department

Server's Phone Number (702) 455-5400

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EXHIBIT 2



Wesley Rusch

Dirofcomp@yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual

Plaintiffs,

Case No. A-20-826568-C  
Case No. A-21-840526-C

Dept 27

MOTION FOR RECONSIDERATION RE ORDER RE  
VEXATIOUS LITIGANT

vs

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, Defendant

**Plaintiffs hereby request relief to file this ORDER**

**Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint  
against the Martin Condominium Unit Owners Association seeking  
compensation for their wrongful and illegal acts.**

**WESLEY RUSCH IS NOT A VEXATIOUS LITIGANT**

In Nevada, a “vexatious litigant” has been defined as one “who repeatedly files

**frivolous lawsuits.”** *See Peck v. Crouser*, 129 Nev. 120, 122, 295 P.3d 586, 587 (2013)

(citing Black’s Law Dictionary 952 (8th ed. 2004)).



The Subject Property was foreclosed upon by Martin CUOA and sold at a foreclosure sale conducted by RRFS *Without the legally required notice* on behalf of Martin CUOA.

Plaintiff has file a complaint with the following causes of actions which is not frivolous

### **Sale of Rusch condo is was in violation of the Martins CCRs and Nevada Law**

Plaintiff is seeking **damages** from the following events

#### **First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. the Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either tum off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

### **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

**The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**THE TWO COMPLAINTS RUSCH FILED WERE IN NO WAY FRIVOLOUS IN NATURE BUT RATHER AN ATTEMPT TO RECEIVE COMPENSATION RUSCH SUSTAINED AS A RESULT OF THE MARTINS WRONGFUL AND ILLEGAL ACTIONS.**

Respectfully Submitted

/S/ Wesley Rusch

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**CERTIFICATE OF SERVICE**

I hereby certify that on or about the date signed I caused the foregoing document to be electronically served pursuant to EDCR 8.05(a) and 8.05(f) through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail to

\_\_\_\_\_/s/\_\_\_\_\_  
Karen Lawrence  
Judicial Executive Assistant

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Wesley Rusch, Plaintiff(s)

CASE NO: A-21-840526-C

7 vs.

DEPT. NO. Department 27

8 Martin Condominium Unit  
9 Owners Association,  
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 11/21/2022

16 Marc Cwik

Marc.Cwik@lewisbrisbois.com

17 Susan Awe

susan.awe@lewisbrisbois.com

18  
19 If indicated below, a copy of the above mentioned filings were also served by mail  
20 via United States Postal Service, postage prepaid, to the parties listed below at their last  
known addresses on 11/22/2022

21 Oliver Longboy

P.O. Box 30907  
Las Vegas, NV, 89173

22  
23 Wesley Rusch

po box 30907  
las vegas, NV, 89173



1 ASTA

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**  
9

10 WESLEY RUSCH; OLVER LONGBOY,

11 Plaintiff(s),

12 vs.

13 THE MARTIN CONDOMINIUM UNIT OWNERS'  
14 ASSOCIATION,

15 Defendant(s),  
16

Case No: A-21-840526-C

*Consolidated with A-20-826568-C*

Dept No: XXVII

17 **CASE APPEAL STATEMENT**  
18

19 1. Appellant(s): Wesley Rusch

20 2. Judge: Nancy Allf

21 3. Appellant(s): Wesley Rusch

22 Counsel:

23 Wesley Rusch  
24 Box 30907  
25 Las Vegas, NV 89173

26 4. Respondent (s): The Martin Condominium Unit Owners' Association

27 Counsel:

28 Marc S. Cwik, Esq.  
6385 S. Rainbow Blvd., Suite 600

Las Vegas, NV 89118

5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes  
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: Yes, May 20, 2022  
*\*\*Expires 1 year from date filed*

Appellant Filed Application to Proceed in Forma Pauperis: N/A  
Date Application(s) filed: N/A

9. Date Commenced in District Court: September 2, 2021

10. Brief Description of the Nature of the Action: REAL PROPERTY - Other

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 85084, 85108

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 8 day of December 2022.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk  
200 Lewis Ave  
PO Box 551601  
Las Vegas, Nevada 89155-1601  
(702) 671-0512

cc: Wesley Rusch



IN THE SUPREME COURT OF THE STATE  
OF NEVADA

Supreme Court No.85821

District Court Case No. A-21-840526-C

TO: \_\_\_\_\_  
Court Reporter Name

Wesley Rusch requests preparation of a transcript of the proceedings before  
the district court, as follows:

Judge or officer hearing the trial or hearing: Allf, Nancy D

Portions of the transcript requested: Entire Transcript

Number of copies required: 3

Name of person requesting  
transcripts Wesley Rusch

Address PO box 30907  
City/State/Zip Las Vegas NV  
89173

Telephone number 7027640001

**CERTIFICATION**

I certify that on this date I ordered these transcripts from the court reporter(s) named above by  
mailing or delivering this form to the court reporter(s) and I paid the required deposit.

Signature /S/ Wesley Rusch

Date December 26 2022

**CERTIFICATION**

I certify that on the date indicated below, I served a copy of this completed transcript request form upon the court reporter(s) and all parties to the appeal:

By personally serving it upon him/her; or

By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail): MARC S. CWIK, ESQ.

LEWIS BRISBOIS BISGAARD & SMITH LLP

6385 S. Rainbow Boulevard, Suite 600 Las Vegas, Nevada 89118

DATED this 26<sup>th</sup> day of December, 2022.

Signature /S/ Wesley Rusch

Print Name Wesley Risch

Address PO Box 30907

City/State/Zip Las Vegas NV 89173





Wesley Rusch

Dirofcomp@Yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual

Plaintiffs,

Case No. A-20-826568-C  
**Case No. A-21-840526-C**

**Dept 27**

**MOTION  
HEARING REQUESTED**

vs

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, Defendant

**Plaintiffs hereby request a hearing on this motion as the courts prior rulings are clearly  
legally erroneous.**

**The courts prior rulings were clearly erroneous**

**Plaintiffs is not a vexatious litigant as HE HAS NOT FILED MULTIPLE  
LAWSUITS WITHOUT MERIT.**

**PLAINTIFFS LAWSUITS HAVE BEEN WITH MERIT AS DISCUSSED  
BELOW AND THE PLAINTIFFS SHOULD HAVE BEEN AWARDED  
COMPENSATION YEARS AGO.**

**Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint against the  
Martin Condominium Unit Owners Association seeking compensation for their wrongful  
and illegal acts.**

The Martin was served by serving their agent for service of process First Residential  
Financial. Affidavit is attached heretofore and incorporated by this reference.

**The Martin failed to respond to the complaint.**

**PLAINTIFFS SEEK COMPENSATION *NOT POSSESSION***

Plaintiffs hereby moves that this court to decide this case based on the **TRUE FACTS and LAW** and  
not on the **FALSE and MISLEADING STATEMENTS** being constantly made by the MARTIN  
including their orders which also contain **FALSE AND MISLEADING STATEMENTS.**

This case is about Recovery for Damages Plaintiffs have suffered as a result of the MARTIN's actions  
and inactions.

## **THE COURT IS INCORRECT REGARDING THE REQUIREMENTS FOR A MOTION FOR RECONSIDERATION.**

### **LEGAL STANDARD**

#### **A Motion for Reconsideration Standard.**

The Nevada Supreme Court has explained that “[o]nly in very rare instances in which **new issues of fact or law are raised supporting a ruling contrary to the ruling already reached** should a motion for rehearing be granted.” *See Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) (emphasis added); *see also Masonry & Tile Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997) (reconsideration is appropriate only where “substantially different evidence is subsequently introduced or **the decision is clearly erroneous**”).

The motion must request a substantive alteration of a judgment, not merely a correction of a clerical error or relief of a type wholly collateral to a judgment. *Id.* at 582. The grounds for filing a motion under NRCP 59(e) include **correcting manifest errors of law or fact**, newly discovered or previously unavailable evidence, **the need to prevent a manifest injustice**, *See Allstate Insurance Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011) (discussing *FRCP 59*, the federal counterpart to NRCP 59). The Martin states the following in their papers:

Dismissal is appropriate under NRCp 12(b)(5) where the allegations in the Complaint, taken at “face value,” and construed favorably in the Plaintiff’s behalf, **fail to state a cognizable claim**. *See Morris v. Bank of Am.*, 110 Nev. 1274, 886 P.2d 454 (1994); *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008).

A district court is to **accept the plaintiff’s factual allegations as true**, but the **allegations must still be legally sufficient to constitute the elements of the claim(s) asserted**. *See Malfabon v. Garcia*, 111 Nev. 793, 796, 898 P.2d 107, 108 (1995). The test for determining whether the allegations of a complaint are **sufficient to assert a claim for relief is whether the allegations give fair notice of the nature and basis of a legally sufficient claim and the relief requested**. *Ravera v. City of Reno*, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984).

**Plaintiff’s Complaint have set forth a valid claim against the Martin of which the Martin has offered no defense as it has NO DEFENSE.**

**The Martin has admitted they were at fault for the flood damage that caused Plaintiffs to vacate their condo for over three months so that Nigro could repair the condo.**

**The Martin has admitted that Red Rock sold Plaintiff’s Condo in violation of Nevada Law**

The **Martin did not comply with the Martin CCRs NRS22.116 et seq** when it sold the property, There was no notice nor demand letter; a clear violation of the constitutional right to due process of

law. **The Martin has produced no notice as there was no notice to produce.**

It is obvious from that Defendant's arguments that they are confused regarding the nature of this case.

There are really two causes of action causing significant damages to Plaintiffs.

Furthermore the complaint requests **compensation for damages**. Possession of the condo will be resolved in the UD action.

## **THE MARTIN FAILED TO COMPLY WITH NEVADA LAW**

### **HOA Boards Beware: Nevada Courts Require Strict Statutory Compliance to Lien and Foreclosure**

Collecting assessments is a vital function to fund the HOA's activities. It is unfair for some owners to avoid paying their fair share, and to have the other owners shoulder their burden. Recognizing this, the Legislature has granted Nevada HOAs the powerful tools to lien and foreclose under the Act. However, with those powerful tools comes the obligation to closely comply with each and every requirement of the Act. it is implicit that HOAs must also closely follow their own governing documents (CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

Because of the technical nature of the Act and the courts' apparent deference to err in favor of due process protections for HOA owners (not too dissimilar from the protections typically afforded to California tenants in unlawful detainer proceedings), the Act is fertile ground for mistakes. **These recent cases make clear that even minor or technical violations can invalidate the lien and foreclosure process**, and add delay and additional expense to the collection process.

## Sale of Rusch condo is was in violation of the Martins CCRs and Nevada Law

Plaintiff is seeking **damages** from the following events

### **First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. The Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either turn off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

### **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 and CCR 17.2**

## **The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of **\$Four Million Dollars each for a total of \$Eight Million Dollars.***

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ **\$43,577.02.** Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

## **THE COURT SHOULD GRANT PLAINTIFF'S SUMMARY JUDGMENT**

NRCP 56 provides the following: "The court shall grant summary judgment if the movant shows that there is **no genuine dispute as to any material fact** and the movant is entitled to **judgment as a matter of law.** The court should state on the record the reasons for granting or denying the motion." **There is no genuine dispute as to the Flood Damages and the Wrongful Sale of Plaintiff's Condo therefore Summary Judgment must be awarded to Plaintiffs.**

The Martin states that This Court finds that Plaintiffs failed to present any credible evidence that RRFS failed to give proper notice or otherwise failed to properly conduct the foreclosure on behalf of Martin CUOA. **THIS ARGUMENT MAKES NO SENSE. HOW DO YOU PROVE A NEGATIVE. THE MARTIN DID NOT GIVE NOTICE!! LET THE MARTIN PROVE THAT RRFS COMPLIED WITH THE LAW. THEY HAVE NOT DONE SO BECAUSE THEY ARE UNABLE TO DO SO CAUSE THE MARTIN KNOWS RRFS SOLD THE CONDO IN VIOLATION OF NEVADA LAW.**

**Furthermore the Martin provides no Declaration to support any of their purported "Facts"**

**Plaintiffs are tired of moving from hotel to hotel and eating out for every meal. It is about time for the court to compensate Plaintiffs for the wrongful actions of the Martin selling their home without notice in violation of Nevada Law and their Constitutional Right of Due Process of Law.**



## **POINTS AND AUTHORITIES**

### **Motion to reconsider**

A motion for reconsideration typically asks the deciding court to reconsider its decision due to the court's failure to review specific legal arguments.

The Martin does not deny that Plaintiffs have file a valid Motion to Reconsider

A motion for reconsideration typically asks the deciding court to reconsider its decision due to the **court's failure to review specific legal arguments**. Alternatively, perhaps the **court misconstrued the argument presented**. Filing a motion for reconsideration allows the moving party to clarify the legal arguments and possibly change the outcome of the case.

### **Rule 2.24. Rehearing of motions.**

(a) No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties.

(c) If a motion for rehearing is granted, the court may make a final disposition of the cause without reargument or may reset it for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

Motions for reconsideration are essential litigation tools. Practitioners need not feel overly pessimistic about the odds for success if they have reasonable grounds for the motion.

Motions for reconsideration are an opportunity to **advance the correct adjudication of a matter.**

Where a **mistake has truly occurred** or you feel the **court missed a critical point**, seize the opportunity to get your case back on track. **Judicial economy favors correction of mistakes** as early as possible, before costly and time-consuming appeals begin. Trial courts are interested in avoiding or correcting mistakes. A thoughtfully presented motion for reconsideration could be just the ticket.

Be sure to cite the specific "causes" on which you are relying.

That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is **contrary to law**;

That **substantial justice has not been done.**

**THE FOLLOWING ARE NEW FACTS SUBSEQUENT TO THE HEARING!**

**Wesley Rusch and Oliver Longboy Plaintiffs "hereinafter Plaintiffs" object to the Courts Orders on the grounds that they contains FALSE and MISSING STATEMENTS. It is apparent that the court never read the orders before signing them otherwise they would have had seen the blatant errors therein. The Martin**

**does not deny the false and misleading statements container therein.**

It is obvious from the order that Defendant's are confused regarding the nature of this case.

The Martin does not deny the following

HOA Boards Beware: Nevada Courts Require Strict Statutory Compliance to Lien and Foreclose

Collecting assessments is a vital function to fund the HOA's activities. It is unfair for some owners to avoid paying their fair share, and to have the other owners shoulder their burden. Recognizing this, the Legislature has granted Nevada HOAs the powerful tools to lien and foreclose under the Act. However, with those powerful tools comes the obligation to closely comply with each and every requirement of the Act. it is implicit that HOAs must also closely follow their own governing documents (CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

Because of the technical nature of the Act and the courts' apparent deference to err in favor of due process protections for HOA owners (not too dissimilar from the protections typically afforded to California tenants in unlawful detainer proceedings), the Act is fertile ground for mistakes. **These recent cases make clear that even minor or technical violations can invalidate the lien and foreclosure process**, and add delay and additional expense to the collection process.

The Martin does not deny that the Sale of Plaintiffs condo is void

Plaintiff is seeking **damages** from the following events

### **First Cause the Flooding**

That on or about June 29, 2015, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran ythroughout the entire floor where the Subject Property was located. the Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either tum off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs' personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

### **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

#### **Notice of Delinquent Assessments**

Before starting the foreclosure, the **HOA must mail a notice of delinquent assessment to the homeowner**, which states:

the **amount of the assessments and other sums that are due**  
a description of the unit against which the lien is imposed, and  
the name of the record owner of the unit. (Nev. Rev. Stat. § 116.31162).

NRS 116.31162 specifically provides that: Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the **association may foreclose its lien by sale after all of the following occur:**

(a) **The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due** *The Martin Failed to do this.* in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) **Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county** *The Martin failed to do this* in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD  
LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE**

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608)

**The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of **\$25,442.92.***

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of **\$Four Million Dollars each for a total of \$Eight Million Dollars.***

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ **\$43,577.02.** Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**Therefore Defendant's motions and orders should be stricken and judgment entered in favor of Plaintiffs**

There is no basis to award The Martin Summary Judgment Rather Plaintiffs should be awarded summary judgment as to the valid claims have filed against the Martin for which they have offered no defense

**It is about time to resolve the case in Plaintiff's favor as the Martin  
has no defense to any of their claims listed in the complaint and  
therefore PLAINTIFF ARE AWARDED JUDGMENT IN THE  
AMOUNT OF \$8,069,019.94**

---

Judges Signature

Respectfully Submitted

/S/ Wesley Rusch  
Wesley Rusch



Your Name: Wesley Rusch and Oliver  
Longboy

Address: PO Box 30907 \_\_\_\_\_ City, State, Zip Las Vegas

**DISTRICT COURT      CLARK COUNTY, NEVADA** Case No. **A-21-840526-C**

**CLARK COUNTY, NEVADA      Case No. A-21-840526-C**

**Dept 8**

**AFFIDAVIT OF SERVICE**

*(this form is to be completed by the person who serves the document)*

I, *(name of person who served the documents)* J Jones Clark County Sheriffs Department ,  
declare **(complete EVERY SECTION below)**:

**I am not a party to or interested in this action and I am over 18 years of age.**

9. ***What Documents You Served.*** I served a copy of the  
Complaint for Compensation and Court Issued  
Summons

10. ***Who You Served.*** I served the Defendant Martin Condominium Unit Owners Association by  
serving First Residential Financial

11. ***When You Served.*** I personally served the documents on 12:00 hour  
of *(time)* *(day)* December 7, 2021

12. ***Where You Served.*** I personally delivered and left the documents with  
**The Party to the Case.** I served the documents on the party at the location  
below. *(complete the details below)*

Name of Person M Mendo First Residential Financial Services

Address Where Served 8290 Arville Street Las Vegas, NV 89139

**I am not required to be licensed under Chapter 648 of the Nevada Revised Statutes or another provision of law because I am not engaged in the business of serving legal process within the state of Nevada.**

**I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT THE FOREGOING IS TRUE AND CORRECT.**

DATED (month) December (day) 7, 20 21.

Server's Signature: ▶ /S/ J Jones Clark County Sheriffs

Department

County Sheriffs Department

Server's Phone Number (702) 455-5400

## WESLEY RUSCH IS NOT A VEXATIOUS LITIGANT

In Nevada, a “vexatious litigant” has been defined as one “who repeatedly files

**frivolous lawsuits.”** *See Peck v. Crouser*, 129 Nev. 120, 122, 295 P.3d 586, 587 (2013) (citing Black’s Law Dictionary 952 (8th ed. 2004)).

The Subject Property was foreclosed upon by Martin CUOA and sold at a foreclosure sale conducted by RRFS *Without the legally required notice* on behalf of Martin CUOA.

Plaintiff has file a complaint with the following causes of actions which are not frivolous

### Sale of Rusch condo is was in violation of the Martins CCRs and Nevada Law

Plaintiff is seeking **damages** from the following events

#### First Cause the Flooding

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. the Martin was informed of the water pipe busting shortly after it happened. The **Martin failed to either tum off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiff’s personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the**

**Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

**Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 et seq and CCR 17.2**

**The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.*

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ \$43,577.02. Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

**The current award of Sanctions violates Nevada Law and hereby is vacated.**

**Nevada Law is as follows**

**Rule 11 - Signing Pleadings, Motions, and Other Papers; Representations to the Court;**

**Sanctions**

**a) Signature.** Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name-or by a party personally if the party is unrepresented. The paper must state the signer's address, email address, and telephone number. Unless a rule or statute specifically states otherwise, a pleading need not be verified or accompanied by an affidavit. The court must strike an unsigned paper unless the omission is promptly corrected after being called to the attorney's or party's attention.

**(b) Representations to the Court.** By presenting to the court a pleading, written motion, or other paper-whether by signing, filing, submitting, or later advocating it-an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any **improper purpose**, such as to **harass**, cause unnecessary delay, or needlessly increase the cost of litigation;(the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(2) the **factual contentions have evidentiary support** or, if specifically so identified, will likely have

evidentiary support after a reasonable opportunity for further investigation or discovery; and

(3) the **denials of factual contentions are warranted** on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

#### NVCP 11c **Sanctions.**

(1) **In General.** If, after notice and a reasonable opportunity to respond, the court determines that **Rule 11(b) has been violated**, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.

(2) **Motion for Sanctions.** A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets. If warranted, the court may award to the prevailing party the reasonable expenses, including attorney fees, incurred for presenting or opposing the motion.

(3) **On the Court's Initiative.** On its own, the court may order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b).

(4) **Nature of a Sanction.** A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated. The sanction may include nonmonetary directives; an order to pay a penalty into court; or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of part or all of the reasonable attorney fees and other expenses directly resulting from the violation.

(5) **Limitations on Monetary Sanctions.** The court must not impose a monetary sanction:

(A) against a represented party for violating Rule 11(b)(2); or

(B) on its own, **unless it issued the show-cause order under Rule 11(c)(3)** before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(6) **Requirements for an Order.** An order imposing a sanction must describe the sanctioned conduct and explain the basis for the sanction.

Wesley Rusch has not made any false representations to the court whereas The Martin's Attorney throughout this litigation has made numerous false and misleading statements especially in its proposed orders. Such orders are not factually correct.

Consequently the Martin should be sanctioned

**The following is from the transcript of the Hearing held on January 6 2022**

**The following comments shows the knowingly False Statements made by the Martin**

Obviously, we went through a whole process. We argued for quite a while back in September 1 in this case.

**NOT TRUE** And, so, I know the Court is very familiar with the plaintiffs' claims,**NOT TRUE** the issues that exist in this case, **NOT TRUE** the defenses of my client.**NOT TRUE**

**N O A N S W E R F I L E D**

This Court, before I even filed  
that Motion that you had granted back in September 1, you  
had filed three prior Orders, actually, addressing these  
issues. **NOT TRUE** So, there's been actually four  
Orders entered by you, **NOT TRUE** Your Honor, related to the  
-- what I call the 2020  
action, which is the one pending in Department 27.

You know, you did bring up, at the last hearing in  
this case, you know, that there are statute of limitations  
concerns with plaintiffs' claims. **T H E R E I S N O**  
**S T A T U E O F L I M I T I A T I O N S A S**  
**T H I S H A S B E E N A C O N T I N I N G**  
**C A S E F O R B R A C H O F A W R I T T E N**  
**C O N T R A C T .** It was something that you pointed out to Mr. Rusch, something that  
was also put

into the Order that was entered back on November 9 of 2021,  
**AN ORDER THAT PLAINTIFF OBJECTED TO AS NOT BEING**  
**ACCURATE**

It just seems that's the best way to try to bring this all  
to a place to where it can, hopefully, get to a resolution,  
because to just keep starting over and over again is just  
not -- it's not sensible. It doesn't make any sense. **SO THE COURT SHOULD SIMPLY**  
**ENTER THE DEFAULT JUDGMENT AND ISSUE THE WRIT OF EXECUTION**



**AS THE MARTIN IS CLEARLY LIABLE FOR SELLING THE CONDO  
WITHOUT THE REQUIRED LEGAL NOTICE**

In this case, The Martin violated **NRS 116.31162** not NRS 22.116.

They provided no notice when they sold my home. Because of The Martin's action, I am now living in a hotel rather than at my home. They sold my condo without notice, violation of Nevada law, in violation of the CCRs of The Martin, and the constitutional right of due process. And, so, I deserve compensation for them having me forcibly evicted from my home, forced to live in a hotel during a pandemic. And that's what this case is all about. And The Martin has no defense to that action because there was no notice and plaintiff deserves compensation. And, therefore, these -- that's all I will say at this point dealing with the consolidation Motion.

So, frankly, honestly, most of the filings of this been very unintelligible. **T H E C O M P L A I N T S A R E I N I N P L A I N E N G L I S H T H E M A R T I N S O L D T H E C O N D O W I T H O U T N O T I C E A S R E Q U I R E D B Y N E V A D A L A W .**

**T h e p e r t i n e n t p o r t i o n s o f t h e  
c o m p l a i n t a r e a s f o l l o w s :**

7. That on or about June 29, 2015, a sprinkler or water pipe busted on the floor where the Subject Property was located.
8. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located.
9. Upon information and belief, the Martin was informed of the water pipe busting shortly after it happened
10. Upon information and belief, the **Martin failed to either turn off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.**
11. That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs' personal property.
12. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.**
13. Plaintiffs informed the Martin HIOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

The sales of Rusch's condo was in violation of Nevada Law. Red Rock Martin' agent was required to comply with Nevada Law.

30. The **Martin HOA did not comply with NRS 116.31162 et seq** and CCR 17.2 when it sold the property,

### Notice of Delinquent Assessments

Before starting the foreclosure, the **HOA must mail a notice of delinquent assessment to the homeowner**, which states:

- the **amount of the assessments and other sums that are due**
- a description of the unit against which the lien is imposed, and
- the name of the record owner of the unit. (Nev. Rev. Stat. § 116.31162).

NRS 116.31162 specifically provides that: Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

1. Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the **association may foreclose its lien by sale after all of the following occur:**

(a) **The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due** *The Martin Failed to do this.* in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) **Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county** *The Martin failed to do this* in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE**

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608)

### **No Notice of the August 10 Sale as required by Nevada Law**

**Rusch did not receive any written or oral notice of a proposed sale of his property . Rusch first learned of the sale by a call from an attorney's office. Therefore the sale was illegal.**

•  
**The court should award sanctions against The Martin in an amount of \$8,069,019.94**

J      

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Judges Signature

Respectfully Submitted

/S/ Wesley Rusch

**Wesley A Rusch**

**Proof of service**

Wesley Rusch being duly sworn and deposed and say that at all times herein affiant was and is a citizen of the United States and over 18 years of age

On January 2 2023 I served the attached document to the following address

MARC S. CWIK, ESQ.  
LEWIS BRISBOIS BISGAARD & SMITH LLP  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118

/S/ Wesley Rusch  
Wesley Rusch

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

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

**DOCKETING STATEMENT  
CIVIL APPEALS**

**GENERAL INFORMATION**

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

**WARNING**

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

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

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



1. Judicial District \_\_\_\_\_ Department \_\_\_\_\_  
County \_\_\_\_\_ Judge \_\_\_\_\_  
District Ct. Case No. \_\_\_\_\_

**2. Attorney filing this docketing statement:**

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_

Client(s) \_\_\_\_\_

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

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

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_

Client(s) \_\_\_\_\_

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

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

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

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

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

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

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

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

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

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

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

☐ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☐ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain:

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

**14. Trial.** If this action proceeded to trial, how many days did the trial last? \_\_\_\_\_

Was it a bench or jury trial? \_\_\_\_\_

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from \_\_\_\_\_**

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

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

Was service by:

☐ Delivery

☐ Mail/electronic/fax

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

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

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

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

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

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

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** \_\_\_\_\_

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

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

\_\_\_\_\_

**SUBSTANTIVE APPEALABILITY**

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

(a)

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

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

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

(a) Parties:

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

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

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

☐ Yes

☐ No

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

(a) Specify the claims remaining pending below:



(b) Specify the parties remaining below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

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

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

## VERIFICATION

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

\_\_\_\_\_  
Name of appellant

\_\_\_\_\_  
Name of counsel of record

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of counsel of record

\_\_\_\_\_  
State and county where signed

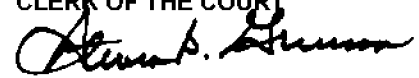
## CERTIFICATE OF SERVICE

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

- ☐ By personally serving it upon him/her; or
- ☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Signature



Wesley Rusch

Dirofcomp@Yahoo.com

Box 30907  
Las Vegas, NV 89173

WESLEY RUSCH, an individual, and  
OLIVER LONGBOY, an individual

Plaintiffs,

Case No. A-20-826568-C  
Case No. A-21-840526-C

Dept 27

MOTION  
HEARING REQUESTED

vs

THE MARTIN CONDOMINIUM UNIT  
OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X;  
and ROE Corporations and Organizations I through X, Defendant

**Plaintiffs hereby request a hearing on this motion as the courts prior rulings are clearly  
legally erroneous.**

**The courts prior rulings were clearly erroneous**

**Plaintiffs is not a vexatious litigant as HE HAS NOT FILED MULTIPLE  
LAWSUITS WITHOUT MERIT.**

**PLAINTIFFS LAWSUITS HAVE BEEN WITH MERIT AS DISCUSSED  
BELOW AND THE PLAINTIFFS SHOULD HAVE BEEN AWARDED  
COMPENSATION YEARS AGO.**

**Plaintiffs Wesley Rusch and Oliver Longboy have filed a civil complaint against the  
Martin Condominium Unit Owners Association seeking compensation for their wrongful  
and illegal acts.**

The Martin was served by serving their agent for service of process First Residential  
Financial. Affidavit is attached heretofore and incorporated by this reference.

**The Martin failed to respond to the complaint.**

**PLAINTIFFS SEEK COMPENSATION** *NOT POSSESSION*

Plaintiffs hereby moves that this court to decide this case based on the **TRUE FACTS and LAW** and  
not on the **FALSE and MISLEADING STATEMENTS** being constantly made by the MARTIN  
including their orders which also contain **FALSE AND MISLEADING STATEMENTS.**

This case is about Recovery for Damages Plaintiffs have suffered as a result of the MARTIN's actions  
and inactions.

## **THE COURT IS INCORRECT REGARDING THE REQUIREMENTS FOR A MOTION FOR RECONSIDERATION.**

### **LEGAL STANDARD**

#### **A Motion for Reconsideration Standard.**

The Nevada Supreme Court has explained that “[o]nly in very rare instances in which **new issues of fact or law are raised supporting a ruling contrary to the ruling already reached** should a motion for rehearing be granted.” *See Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) (emphasis added); *see also Masonry & Tile Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997) (reconsideration is appropriate only where “substantially different evidence is subsequently introduced or **the decision is clearly erroneous**”).

The motion must request a substantive alteration of a judgment, not merely a correction of a clerical error or relief of a type wholly collateral to a judgment. *Id.* at 582. The grounds for filing a motion under NRCP 59(e) include **correcting manifest errors of law or fact**, newly discovered or previously unavailable evidence, **the need to prevent a manifest injustice**, *See Allstate Insurance Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011) (discussing *FRCP 59*, the federal counterpart to NRCP 59). The Martin states the following in their papers:

Dismissal is appropriate under NRCp 12(b)(5) where the allegations in the Complaint, taken at “face value,” and construed favorably in the Plaintiff’s behalf, **fail to state a cognizable claim**. *See Morris v. Bank of Am.*, 110 Nev. 1274, 886 P.2d 454 (1994); *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008).

A district court is to **accept the plaintiff’s factual allegations as true**, but the **allegations must still be legally sufficient to constitute the elements of the claim(s) asserted**. *See Malfabon v. Garcia*, 111 Nev. 793, 796, 898 P.2d 107, 108 (1995). The test for determining whether the allegations of a complaint are **sufficient to assert a claim for relief is whether the allegations give fair notice of the nature and basis of a legally sufficient claim and the relief requested**. *Ravera v. City of Reno*, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984).

**Plaintiff’s Complaint have set forth a valid claim against the Martin of which the Martin has offered no defense as it has NO DEFENSE.**

**The Martin has admitted they were at fault for the flood damage that caused Plaintiffs to vacate their condo for over three months so that Nigro could repair the condo.**

**The Martin has admitted that Red Rock sold Plaintiff’s Condo in violation of Nevada Law**

The **Martin did not comply with the Martin CCRs NRS22.116 et seq** when it sold the property, There was no notice nor demand letter; a clear violation of the constitutional right to due process of

law. **The Martin has produced no notice as there was no notice to produce.**

It is obvious from that Defendant's arguments that they are confused regarding the nature of this case.

There are really two causes of action causing significant damages to Plaintiffs.

Furthermore the complaint requests **compensation for damages**. Possession of the condo will be resolved in the UD action.

## **THE MARTIN FAILED TO COMPLY WITH NEVADA LAW**

### **HOA Boards Beware: Nevada Courts Require Strict Statutory Compliance to Lien and Foreclosure**

Collecting assessments is a vital function to fund the HOA's activities. It is unfair for some owners to avoid paying their fair share, and to have the other owners shoulder their burden. Recognizing this, the Legislature has granted Nevada HOAs the powerful tools to lien and foreclose under the Act. However, with those powerful tools comes the obligation to closely comply with each and every requirement of the Act. it is implicit that HOAs must also closely follow their own governing documents (CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

Because of the technical nature of the Act and the courts' apparent deference to err in favor of due process protections for HOA owners (not too dissimilar from the protections typically afforded to California tenants in unlawful detainer proceedings), the Act is fertile ground for mistakes. **These recent cases make clear that even minor or technical violations can invalidate the lien and foreclosure process**, and add delay and additional expense to the collection process.

## Sale of Rusch condo is was in violation of the Martins CCRs and Nevada Law

Plaintiff is seeking **damages** from the following events

### **First Cause the Flooding**

That on or about June 29, a sprinkler or water pipe busted on the floor where the Subject Property was located. As a result of the water pipe busting, water ran throughout the entire floor where the Subject Property was located. The Martin was informed of the water pipe busting shortly after it happened. **The Martin failed to either turn off the water escaping from the busted water pipe or failed to irrigate the water to another location to prevent damage to the Subject Property and its neighboring units.** That as a result, the Subject Property suffered extensive damage including damage to its floors and Plaintiffs personal property. Furthermore, **the damage was so extensive that Plaintiffs were required to vacate the Subject Property and incur large expenses on their part.** Plaintiffs informed the Martin HOA that the damage caused to Plaintiffs' Subject and the expenses incurred to vacate the Subject Property **far exceeded any monthly assessments**

### **Second Claim for illegal sale of home in violation of Nevada Law and CCR 17.2**

The Subject Property was foreclosed upon and sold at a foreclosure sale conducted by Red Rock Financial Services on behalf of the Martin UOA **without notice to Plaintiffs in violation of Nevada Law. NRS 116.31162 and CCR 17.2**



## **The complaint seeks damages**

*For monetary damages as a result of the Flood, in an amount of \$25,442.92.*

*For monetary damages as a result of Defendant's illegal sale of their home causing the wrongful eviction in an amount of **\$Four Million Dollars each for a total of \$Eight Million Dollars.***

*The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Four Dollars and Ninety Two Cents on the Complaint*

*Total Attorney Fees \$ **\$43,577.02.** Amount Bryan Naddafi wrongful took from proceeds*

**Total \$8,069,019.94**

## **THE COURT SHOULD GRANT PLAINTIFF'S SUMMARY JUDGMENT**

NRCP 56 provides the following: "The court shall grant summary judgment if the movant shows that there is **no genuine dispute as to any material fact** and the movant is entitled to **judgment as a matter of law**. The court should state on the record the reasons for granting or denying the motion." **There is no genuine dispute as to the Flood Damages and the Wrongful Sale of Plaintiff's Condo therefore Summary Judgment must be awarded to Plaintiffs.**

The Martin states that This Court finds that Plaintiffs failed to present any credible evidence that RRFS failed to give proper notice or otherwise failed to properly conduct the foreclosure on behalf of Martin CUOA. **THIS ARGUMENT MAKES NO SENSE. HOW DO YOU PROVE A NEGATIVE. THE MARTIN DID NOT GIVE NOTICE!! LET THE MARTIN PROVE THAT RRFS COMPLIED WITH THE LAW. THEY HAVE NOT DONE SO BECAUSE THEY ARE UNABLE TO DO SO CAUSE THE MARTIN KNOWS RRFS SOLD THE CONDO IN VIOLATION OF NEVADA LAW.**

**Furthermore the Martin provides no Declaration to support any of their purported "Facts"**

**Plaintiffs are tired of moving from hotel to hotel and eating out for every meal. It is about time for the court to compensate Plaintiffs for the wrongful actions of the Martin selling their home without notice in violation of Nevada Law and their Constitutional Right of Due Process of Law.**

## **POINTS AND AUTHORITIES**

### **Motion to reconsider**

A motion for reconsideration typically asks the deciding court to reconsider its decision due to the court's failure to review specific legal arguments.

The Martin does not deny that Plaintiffs have file a valid Motion to Reconsider

A motion for reconsideration typically asks the deciding court to reconsider its decision due to the **court's failure to review specific legal arguments**. Alternatively, perhaps the **court misconstrued the argument presented**. Filing a motion for reconsideration allows the moving party to clarify the legal arguments and possibly change the outcome of the case.

### **Rule 2.24. Rehearing of motions.**

(a) No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties.

(c) If a motion for rehearing is granted, the court may make a final disposition of the cause without reargument or may reset it for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

Motions for reconsideration are essential litigation tools. Practitioners need not feel overly pessimistic about the odds for success if they have reasonable grounds for the motion.

Motions for reconsideration are an opportunity to **advance the correct adjudication of a matter.**

Where a **mistake has truly occurred** or you feel the **court missed a critical point**, seize the opportunity to get your case back on track. **Judicial economy favors correction of mistakes** as early as possible, before costly and time-consuming appeals begin. Trial courts are interested in avoiding or correcting mistakes. A thoughtfully presented motion for reconsideration could be just the ticket.

Be sure to cite the specific "causes" on which you are relying.

That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is **contrary to law**;

That **substantial justice has not been done.**

**THE FOLLOWING ARE NEW FACTS SUBSEQUENT TO THE HEARING!**

**Wesley Rusch and Oliver Longboy Plaintiffs "hereinafter Plaintiffs" object to the Courts Orders on the grounds that they contains FALSE and MISSING STATEMENTS. It is apparent that the court never read the orders before signing them otherwise they would have had seen the blatant errors therein. The Martin**

**does not deny the false and misleading statements container therein.**

It is obvious from the order that Defendant's are confused regarding the nature of this case.

The Martin does not deny the following

HOA Boards Beware: Nevada Courts Require Strict Statutory Compliance to Lien and Foreclose

Collecting assessments is a vital function to fund the HOA's activities. It is unfair for some owners to avoid paying their fair share, and to have the other owners shoulder their burden. Recognizing this, the Legislature has granted Nevada HOAs the powerful tools to lien and foreclose under the Act. However, with those powerful tools comes the obligation to closely comply with each and every requirement of the Act. it is implicit that HOAs must also closely follow their own governing documents (CC&Rs, Bylaws, rules and policies), including adopting and following collection policies, in pursuing collection activities authorized under the Act.

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The Martin does not deny that the Sale of Plaintiffs condo is void

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#### **Notice of Delinquent Assessments**

Before starting the foreclosure, the **HOA must mail a notice of delinquent assessment to the homeowner,** which states:

the **amount of the assessments and other sums that are due**  
a description of the unit against which the lien is imposed, and  
the name of the record owner of the unit. (Nev. Rev. Stat. § 116.31162).

NRS 116.31162 specifically provides that: Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.

Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the **association may foreclose its lien by sale after all of the following occur:**

(a) **The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due** *The Martin Failed to do this.* in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) **Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county** *The Martin failed to do this* in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD  
LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE**

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.



(Added to NRS by 1991, 569; A 1993, 2371; 1997, 3121; 1999, 3011; 2003, 2244, 2273; 2005, 2608)

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**Total \$8,069,019.94**

**Therefore Defendant's motions and orders should be stricken and judgment entered in favor of Plaintiffs**

There is no basis to award The Martin Summary Judgment Rather Plaintiffs should be awarded summary judgment as to the valid claims have filed against the Martin for which they have offered no defense

**PLEADING  
CONTINUES  
IN NEXT  
VOLUME**