

Case No.

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**In the Supreme Court of Nevada**

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Electronically Filed  
Mar 28 2023 11:37 AM  
Elizabeth A. Brown  
Clerk of Supreme Court

*In re 3587 Desatoya Drive Carson City, Case No. 150C00741B*

SYLVIA FRED & ELVIN FRED,

*Petitioners,*

v.

THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND  
FOR THE COUNTY OF CARSON CITY AND THE HONORABLE JUDGE JAMES  
RUSSELL

*Respondent,*

and

STATE OF NEVADA *EX REL.* INVESTIGATION DIVISION OF THE DEPARTMENT  
OF PUBLIC SAFETY OF THE STATE OF NEVADA (TRI-NET NARCOTICS TASK  
FORCE)

*Real Party in Interest,*

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**PETITIONER'S APPENDIX – VOLUME 5 OF 8**

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RORY T. KAY (NSBN 12416)  
JANE SUSSKIND (NSBN 15099)  
JOHN A. FORTIN (NSBN 15221)  
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Dated this 27th day of March 2023.

MCDONALD CARANO, LLP

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*Pro Bono Counsel for Petitioner*

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDONALD CARANO LLP, and that on this 27th day of March 2023, I electronically filed and served by electronic mail a true and correct copy of the above and foregoing properly addressed to the following:

The Honorable Judge James Russell  
First Judicial District Court  
Department 1  
885 East Musser Street,  
Carson City, Nevada 89701  
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*Pro Bono Counsel for  
Claimant Sylvia Fred*

**FIRST JUDICIAL DISTRICT COURT  
CARSON CITY, NEVADA**

In Re:  
3587 Desatoya Drive, Carson City, Nevada  
89701, Carson City, Assessor's Parcel  
Number: 010-443-11.

SYLVIA FRED, an individual,  
Counterclaimant,  
v.  
STATE OF NEVADA ex rel.  
INVESTIGATION DIVISION OF THE  
NEVADA STATE POLICE (TRI-NET  
NARCOTICS TASK FORCE),  
Counterdefendant,

ELVIN FRED, an individual,  
Counterclaimant,  
v.  
STATE OF NEVADA ex rel.  
INVESTIGATION DIVISION OF THE  
NEVADA STATE POLICE (TRI-NET  
NARCOTICS TASK FORCE),  
Counterdefendant,

Claimant Sylvia Fred respectfully submits this Appendix of Exhibits to *Sylvia Fred's Motion for Partial Summary Judgment Seeking a Declaration that Nevada's Civil Forfeiture Laws Violate Due Process.*

**REC'D & FILED**  
December 8, 2022 Date  
AUBREY ROWLATT  
CLERK  
By BAPALAC Deputy

Case No.: 15 0C 00074 1B  
Dept. No.: 2

**APPENDIX OF EXHIBITS TO SYLVIA  
FRED'S MOTION FOR PARTIAL  
SUMMARY JUDGMENT SEEKING A  
DECLARATION THAT NEVADA'S CIVIL  
FORFEITURE LAWS VIOLATE DUE  
PROCESS**

Exhibit	Exhibit Description	Bates No.
1	Escrow Order re 3587 Desatoya Drive	APEN000001
2	Complaint, in the United States District Court District of Nevada, Case No. 3:11-cv-0064-HDM-VPC	APEN000002- APEN000012
3	Docket, in the United States District Court District of Nevada, Case No. 3:11-cv-0064-HDM-VPC	APEN000013- APEN000018
4	Answer to Complaint, in the United States District Court District of Nevada, Case No. 3:11-cv-0064-HDM-VPC	APEN000019- APEN000027
5	Stipulation and Order for Dismissal with Prejudice, in the United States District Court District of Nevada, Case No. 3:11-cv-0064-HDM-VPC	APEN000028- APEN000029
6	Declaration of Carol M. Toohey	APEN000030- APEN000032
7	Cashier's Checks, dated April 9, 2012 and April 17, 2012	APEN000033- APEN000034
8	Email from MoneyGram International, dated November 24, 2021	APEN000035- APEN000036
9	Letter from Baldwin State Bank, dated December 1, 2021	APEN0000037
10	Real Estate Sales Business Record	APEN000038- APEN000067
11	Counter Offer re 3587 Desatoya Drive	APEN000068- APEN000069
12	Recorded Grant Deed	APEN000070- APEN000072
13	Recorded Quitclaim Deed	APEN000073- APEN000076
14	Complaint, in the First Judicial District Court, Carson City, Nevada, Case No. 21 RP 00005 1B	APEN000077- APEN000096
15	Video of 3587 Desatoya Drive, dated March 14, 2022	APEN000097
16	Declaration of Sylvia Fred	APEN000098
17	3587 Desatoya Drive Public Works Bill	APEN000099
18	Email chain between Sylvia Fred Email with C. McCann	APEN000100- APEN000102
19	Email chain between Sylvia Fred Email with C. McCann	APEN000103- APEN000104
20	Declaration of Elvin	APEN000105- APEN000106
21	Declaration of Sylvia Fred	APEN000107- APEN000109

22	Declaration of John A. Fortin	APEN000110
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Dated this 8th day of December 2022.

McDONALD CARANO LLP  
(NSBN 15075)  
By: Rach Norand on behalf of  
Ryan J. Works, Esq. (NSBN 9224)  
John A. Fortin, Esq. (NSBN 15221)  
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*Pro Bono Counsel for  
Claimant Sylvia Fred*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP and that, on this 8th day of December 2022, I caused to be delivered via email, and hand delivery, true and correct copies of the above **APPENDIX OF EXHIBITS TO SYLVIA FRED'S MOTION FOR PARTIAL SUMMARY JUDGMENT SEEKING A DECLARATION THAT NEVADA'S CIVIL FORFEITURE LAWS VIOLATE DUE PROCESS** to the following:

Investigation Division of the Department of Public Safety  
State of Nevada  
(Tri-Net Narcotics Task Force)  
555 Wright Way  
Carson City, Nevada 89711  
[jwoodbury@carson.org](mailto:jwoodbury@carson.org)  
[bjohnson@carson.org](mailto:bjohnson@carson.org)

Aaron Ford  
Nevada Attorney General  
100 North Carson Street  
Carson City, Neva 89701

  
An employee of McDonald Carano LLP

4875-0473-7858, v. 2

PROPERTY ADDRESS 010-443-11 SALE PRICE \$ 69,900. ESCROW OPENED  
APN NUMBER \$ 1000.00 CLOSE OF ESCROW on or before May 15, 2012  
EARNEST DEPOSIT \_\_\_\_\_ CHECK NUMBER \_\_\_\_\_ CONTRACT DATE \_\_\_\_\_

**SELLER(S)**

Federal Home Loan Mortgage Corp  
SELLER NAME HOME PHONE

FHLMC Loan #  
762592613

SELLER Address for Returning Docs:

E PHONE

Asset ID #  
946780

MAILING Harmony Escrow, Inc.  
17100 Gillette Ave.

CITY Irvine, CA 92614

Escrow Officer: Fernando Dominguez [Fdominguez@harmonyescrow.com](mailto:Fdominguez@harmonyescrow.com)

Responsibilities: Closing files, Post Closing Issues, Concerns and Questions  
Signing Coordinator

**EXISTI** Contact Number: 949-660-0050  
Fax Number: 949-757-0785

Escrow Assistant: David MaKay [dmckay@harmonyescrow.com](mailto:dmckay@harmonyescrow.com)

Responsibilities: Funding and Loan Document Packaging, Prior to Docs, HUD

LENDER

**BUYER(S)**

Elvin Fred  
BUYER NAME HOME PHONE

Owner occupy

BUYER NAME OFFICE PHONE

P.O. Box 443

775-445-9883  
CELL PHONE

MAILING ADDRESS Carson City NV 89701  
CITY STATE ZIP

ADDITIONAL PHONE

**NEW MORTGAGE**

LENDER

All CASH  
LENDER PHONE

LOAN OFFICER

LENDER FAX

**LISTING OFFICE**

Callwell Barker Select  
LISTING OFFICE

Mike Specchio  
AGENT

775-745-3828  
OFFICE PHONE cell OFFICE FAX

**SELLING OFFICE**

Century 21 Jim Wilson Realty  
SELLING OFFICE

Carolmarie Trohey  
AGENT

775-882-2135 775-882-8074  
OFFICE PHONE OFFICE FAX

mspecchio@aol.com

Carolmarie @ intothehome.  
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Cell 775-721-5451

FRED0001

APEN000001  
PA000747

1 FRED ATCHESON  
Nevada Bar 0135  
2 P.O. Box 8292  
University Station  
3 Reno, NV 89507  
(775) 771-3037

4 LOREN GRAHAM  
5 Nevada Bar No. 0673  
P.O. Box 6329  
6 Stateline Lake Tahoe, NV 89449  
(775) 588-5138  
7 Attorneys for Plaintiff

8  
9  
10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 \*\*\*

13 Elvin Lee Fred,  
14 Plaintiff

15 v.

**COMPLAINT**  
**Jury demand**

16 \_\_\_\_\_  
17 County of Carson City, a municipal  
corporation; Sheriff's Deputy Jason  
18 Bueno, Sheriff's Deputy Gary Underhill,  
and The Carson Nugget, Inc., a  
Nevada corporation.

19 \_\_\_\_\_  
20 \_\_\_\_\_ Defendants. /

21 **I. JURISDICTION AND VENUE**

22 1 This court has jurisdiction of this action pursuant to 28 U.S.C. sections 1331,  
23 1343, 2201; 42 U.S.C. section 1983 (Fourth and Fourteen Amendments) and  
24 pendent state claims.

25 2. Venue in his action is appropriate in the District of Nevada Pursuant to 28 U.S.C.  
26 section 1391(b).

**II. Parties**

3. Plaintiff **ELVIN LEE FRED (“FRED”)** is a resident of Carson City, Nevada.

4. At all times relevant herein Defendant **JASON BUENO (“BUENO”)** was a Carson City Sheriff’s office Deputy employed by the County of Carson City.

5. Defendant **CARSON CITY** is a municipal corporation and political subdivision of the State of Nevada.

6. At all times relevant herein Defendant Deputy **GARY UNDERHILL (“UNDERHILL”)** was a Carson City Sheriff’s Deputy employed by the county of Carson City in Carson City, Nevada.

7. At all times relevant herein the **Carson Nugget Corporation** (hereafter “Nugget” was a licensed gaming and resort establishment operating in Carson City, Nevada and incorporated in Nevada.

8. Said deputies acted under color of state law and pursuant to a custom and policy of Carson City. Defendant Carson Nugget acted jointly with said deputies wilfully for the purpose of depriving plaintiff of his constitutional rights, rendering it a state actor. Both the deputies and Carson Nugget security had the opportunity to intercede to prevent the violations from occurring and failed to so do. The Nugget caused the events to ensue in a manner that violated Plaintiff’s constitutional rights.

**III. Factutal Allegations**

9. Defendants BUENO, and UNDERHILL, acting under the color of state law and entrusted with duties as employees of the County of Carson Sheriff’s department have violated those duties and caused the plaintiff to be deprived of his constitutional rights.

10. Plaintiff alleges that each of the defendants performed, participated in, aided and/or abetted in some manner the outrageous acts averred herein, proximately

1 caused the damages averred below, and that each is liable to plaintiff for the  
2 damages and other relief sought herein.

3 11. At the time of the incident causing this lawsuit, and at all times relevant herein,  
4 plaintiff was a 26-year-old citizen and a resident of Carson City. He is a native  
5 American Indian, a member of a local tribe and a resident of the region of Nevada  
6 where these violations occurred, as described herein following.

7 12. In the early evening hours of January 30<sup>th</sup>, 2009, during a usual outing by  
8 Plaintiff ELVIN FRED (hereafter "plaintiff") and several members of his family, all  
9 went to the Nugget to enjoy the special dinner offered inside. At the restaurant area  
10 Plaintiff and the family ordered food. Before dinner arrived Plaintiff went to the  
11 casino area and, by coincidence, met a friend, Lawrence Sally, who indicated he  
12 couldn't find his transportation home after walking around the parking lot and  
13 wished to use Plaintiff's cellular telephone.

14 13. After using Plaintiff's cellular telephone directly outside the casino east  
15 entrance, Lawrence Sally was immediately accosted by Deputy BUENO. Plaintiff  
16 had been entering the Nugget door but stopped after Lawrence was confronted by  
17 Deputy BUENO because he was worried about the level of the confrontation by the  
18 deputies with Lawrence Sally. BUENO then turned attention to Plaintiff and began  
19 by yelling and screaming orders at Plaintiff which he could not understand and were  
20 plainly rude. No cause existed for BUENO to issue any order, cause any  
21 impediment to Plaintiff's freedom or to touch Plaintiff.

22 14. BUENO demanded identification from Plaintiff. Plaintiff complained to  
23 BUENO, advised that he was having dinner with his family and advised BUENO  
24 that he had no right to stop him; none the less, Plaintiff yielded to this  
25 unconstitutional directive and gave BUENO his valid Nevada drivers license.

26 15. Instead, BUENO escalated his unconstitutional behavior, obtained his taser



1 device, pointed it at Plaintiff's face. Concurrently, Deputy UNDERHILL, having  
2 weaseled up on Plaintiff from behind, grabbed Plaintiff by his head and neck and  
3 violently drove Plaintiff's head and body backwards into the pavement and the door  
4 of the casino. Both deputies violently tackled Plaintiff in a manner designed to  
5 inflict the most pain and damage possible, and punched, strangled and pummeled  
6 Plaintiff during the process.

7 16. Plaintiff fell, sandwiched between the deputies, who continued to hit Plaintiff  
8 with closed fists until they were satiated, cuffed Plaintiff behind his back, and  
9 officers BUENO and UNDERHILL tased Plaintiff while Plaintiff begged for them  
10 to stop, stating over and over "I didn't do anything."

11 17. BUENO employed a Sheriff issued taser electronic device to Plaintiff in  
12 violation of his constitutional rights.

13 18. UNDERHILL employed a Sheriff issued taser to Plaintiff also in violation of  
14 Plaintiff's rights, and BUENO and UNDERHILL employed taser devices  
15 concurrently in violation of his constitutional rights.

16 19. Plaintiff was handcuffed, beaten and tased, his head banged on the hood of the  
17 police vehicle and finally threatened by UNDERHILL with an attack by the police  
18 dog.

19 20. Plaintiff was thereafter unlawfully restrained of his liberty, unlawfully  
20 questioned without probable cause, unlawfully searched in violation of the 4<sup>th</sup>  
21 amendment to the United States Constitution.

22 21. Plaintiff was thereafter unlawfully jailed at the Carson City Jail facility in  
23 violation of his fifth amendment rights and his statutory civil rights.

24 22. Plaintiff was wrongfully arrested, jailed, and unlawful charges were lodged  
25 against him and remained in place for months until dismissed.

26 23. Video surveillance of Defendant Nugget's east entrance was ongoing before,

1 during and after Plaintiff was beaten and electrocuted. Defendant Nugget knew or  
2 should have known Plaintiff and his family entered the establishment, went to the  
3 restaurant, was an invited guest of their establishment and was unrelated to any  
4 perceived suspicious conduct at the Nugget.

5 24. Nugget security personnel reported to authorities a person loitering in the  
6 parking area. To this effect the Carson Sheriff's were given a description distinct  
7 from the Plaintiff; the Nugget directed BUENO and UNDERHILL to their only  
8 suspect; the officers diverted attention to Plaintiff with no probable cause to so do;  
9 the Nugget failed to take reasonable steps to protect a guest from the unwarranted  
10 invasion by the police on an investigation instituted by the Nugget.

11 25. Although the Nugget security maintained constant video monitoring of the  
12 antagonistic conduct of the officers regarding an invited guest of the casino, the  
13 Nugget made no effort to inform the police of their mistake.

14 26. After handcuffing Plaintiff he was placed in a Sheriff's patrol vehicle on the  
15 Nugget premises. Although the Nugget had ample time to correct any mistakes in  
16 this "investigation" Nugget security failed to inform the police they had beaten,  
17 handcuffed and tased a guest on company property who was not suspected of any  
18 wrongdoing. Defendant took no steps to come forth with evidence of the events  
19 instead allowed Plaintiff to be arrested, and jailed.

20 27. Plaintiff suffered physical pain, suffering and mental trauma from the  
21 unconstitutional conduct of BUENO and UNDERHILL which conduct was allowed  
22 to take place by Defendant Nugget.

23 28. Plaintiff suffered false imprisonment at the Carson City jail as a result of the  
24 unconstitutional actions of BUENO, UNDERHILL and BREHM, said acts being a  
25 foreseeable result of a wrongful assault allowed to take place by Defendant Nugget.

26 29. Plaintiff alleges that BUENO and UNDERHILL acted in an out of control

1 fashion. They would not listen to Plaintiff; nor would they confirm with Nugget  
2 security Plaintiff's protestations of innocence. The deputies attacked an innocent  
3 guest and the Nugget merely watched and recorded the attack.

4 30. The force used against Plaintiff was deliberate, violent, dangerous, and  
5 potentially life threatening. This violence was ratified by the acquiescence of  
6 Nugget's trained security by causing and then allowing the attack and  
7 imprisonment.

8 31. The failure of Defendant Carson City to properly hire, train and supervise  
9 BUENO and UNDERHILL amounts to deliberate indifference to the safety and  
10 liberty of citizens.

11 32. Defendant Carson City is directly liable and responsible for the acts of the  
12 individual defendants BUENO and UNDERHILL in failing to assist the  
13 enforcement of the constitution of the United States and the laws of the State of  
14 Nevada.

15 33. The Nugget is directly responsible for indifference to the violation of the  
16 constitutional rights of their own guest and their implicit ratification of the conduct  
17 by deputies exhibited against Plaintiff and monitored by the Nugget.

18 34. Carson City demonstrated indifference to the unconstitutional arrest of Plaintiff.  
19 Carson City has ratified the conduct of the officers by allowing repeated acts of  
20 aggressive force by its employees. It is believed and therefore alleged there is a past  
21 history of complaints and allegations against BUENO and/or UNDERHILL, and  
22 others currently unknown to Plaintiff; the Sheriff of Carson City was indifferent to  
23 these complaints and the indifference contributed to unconstitutional activities  
24 against its citizens.

25 35. UNDERHILL and BUENO fabricated their own reports to justify wrongful  
26 conduct which was thereafter ratified by Carson City who then engaged in

1 deliberate actions to delay justice to Plaintiff, to intimidate Plaintiff and to extract  
2 false admissions under threats of further false imprisonment.

3 **IV. First Claim: Unlawful Arrest**

4 36. Paragraphs 1-35 are incorporated herein by reference.

5 37. Plaintiff was falsely arrested and restrained without probable cause by BUENO  
6 and UNDERHILL who did not have an objective, reasonable, good faith cause to  
7 believe that Plaintiff had committed or was about to commit a crime.

8 38. The arrest of Plaintiff was in violation of his right under the Fourth  
9 Amendment of the United States Constitution to be free from unreasonable or  
10 unlawful arrest and caused Plaintiff to suffer physical and emotional damages. The  
11 precise amount of damages will be determined at trial, with the Plaintiff reserving  
12 the right to seek exemplary damages against the named officers.

13 39. Pursuant to 42 USC section 1983, Plaintiff prays that this Court enter a  
14 monetary judgment in his favor and against Defendants and each of them in an  
15 amount sufficient to compensate him for the damages suffered as a result of  
16 defendants' violation of Plaintiff's Fourth Amendment rights. Plaintiff seeks any  
17 further relief deemed appropriate by the court including costs, attorney fees, expert  
18 witness fees, and prejudgment and post-judgment interest.

19 **V. Second Claim: Excessive force**

20 40. Plaintiff incorporates paragraphs 1-39 by reference herein.

21 41. The individual defendant officers engaged in an unlawful arrest and thus had no  
22 justification for use of force and then unjustly used greater force than would have  
23 been reasonably necessary to affect an arrest. Plaintiff's injuries include but are not  
24 limited electrocution and pain in the arms, hands, knees, back and neck, including  
25 lacerations and bruises upon his body in numerous locations. The exact amount of  
26 damages will be determined at trial. Plaintiff reserves the right to seek exemplary

1 damages in addition to those requested herein above.

2 42. The use of excessive force was in violation of Plaintiff's right under the fourth  
3 Amendment to the United States Constitution to be free from unreasonable seizure  
4 of his person.

5 **VI. Third Claim: Assault and Battery**

6 43. Paragraphs 1-42 are herein incorporated by reference.

7 44. The actions of officers BUENO and UNDERHILL were willful and wanton,  
8 and accompanied by a conscious and callous disregard for potential physical risk to  
9 Plaintiff. As a direct consequence of the above neither of the individual police  
10 officers is immune from liability pursuant to the violations of Nevada law and as  
11 such this court has pendent jurisdictions over any specie of civil claim brought  
12 under Nevada State law.

13 45. The conduct of the officers constitute a individual assault and battery caused by  
14 both officers in concert and said officers are responsible for the physical injuries  
15 and emotional distress as expressed above herein.

16 46. Damages for intentional wrongs in violation of State law and statutes, such as  
17 those claimed herein, are presumed and are specifically alleged in this complaint;  
18 however, Plaintiff further requests any additional relief deemed appropriate by the  
19 Court including costs, expert witness fees, attorney fees and interest on any  
20 judgement awarded herein.

21 **VII. Fourth Claim: False Imprisonment**

22 47. Plaintiff incorporates paragraphs 1-46 above herein.

23 48. Plaintiff was unlawfully imprisoned first in the police vehicle and secondly in  
24 the jail of Defendant Carson City.

25 49 This unlawful imprisonment was unlawful, intentionally done by BUENO and  
26 UNDERHILL and in violation of the laws of Nevada and the constitution thereof.

1 50. This claim also applies to the Defendant NUGGET as this defendant acquiesced  
2 to the unlawful restraint and allowed such unfair imprisonment to the Plaintiff by  
3 failing to take any steps to correct the false accusation of criminal conduct by the  
4 officers wrongfully arresting Plaintiff and caused additional false and unlawful  
5 imprisonment to be suffered by Plaintiff.

6 51. Plaintiff has been damaged by the defendant according to proof offered at trial  
7 herein.

8 **VIII. Fifth Claim: Gross Negligence against Nugget**

9 52. Plaintiff incorporates by reference paragraphs 1 to 51 above herein.

10 53. Defendant Nugget provided accommodations to the Plaintiff as their guest in  
11 their commercial establishment.

12 54. The security of the Nugget is and was provided to secure the premises and to  
13 protect guests from foreseeable dangers.

14 55. Defendant Nugget officials created a situation dangerous to Plaintiff by failing  
15 to immediately notify officers Plaintiff was not the suspect under surveillance as  
16 earlier reported to the Carson City Sheriff's office.

17 56. Defendant Nugget failed to give an adequate description of the  
18 suspect and Carson City Sheriff's were misled by a negligent failure to render a  
19 precise description of a suspect to the ultimate damage of this Plaintiff and failing to  
20 immediately rectify any misconception by deputies acting herein.

21 57. The breach of duties above described led directly to the events causing the  
22 wrongful arrest, assault and battery upon plaintiff.

23 58. The Plaintiff was damaged in an amount in excess of \$10,000.

24 **IX. Sixth Claim: Civil Conspiracy**

25 59. Plaintiff incorporates by reference paragraphs 1 to 58 above herein.

26 60. All defendants agreed tacitly and/or explicitly to engage in the aforementioned

overt acts designed to violate Plaintiff's rights aforementioned.

61. Defendants willfully engaged in joint action designed to violate Plaintiff's rights. Defendants are thus liable pursuant to section 42 U.S.C. 1983 under a civil rights conspiracy.

**X. Seventh Claim: Malicious Prosecution**

62. Plaintiff incorporates by reference paragraphs 1 to 61 above herein.

63. Defendants cause the prosecution of Plaintiff without probable cause and with malice.

64. The criminal charges were dismissed and the outcome of the criminal matter resolved in favor of Plaintiff.

65. Plaintiff suffered the above described damages plus attorneys fees and costs incurred during the lengthy and malicious prosecution.

**WHEREFORE**, the Plaintiff prays for a judgement against:

1. Defendant Carson City in an amount sufficient to compensate for all damages allowed under title 42 U.S.C. section 1983.

2. A reasonable amount as and for exemplary damages against BUENO and UNDERHILL under applicable federal law.

3. Damages and exemplary damages against the described Deputy Defendants on the pendent State claims.

4. As against all defendants, jointly and severally, a reasonable amount in excess of ten thousand (\$10,000) for damages incurred for the assault, wrongful arrest, and false imprisonment foreseeable occurring as a result of their negligence, duty lapses, and their ratification of the conduct by the deputies all according to proof at trial.

5. Attorneys fees and costs involved in litigation of all issues.

6. For any nominal damages.

1 7. For leave to amend this complaint if necessary later.

2 8. For any other relief justified under the premises herein deemed justified by the  
3 court.

4  
5 DATED this 28<sup>th</sup> day of January, 2011.  
6  
7

8  
9 1-28-2011 /s/  
10 DATE By: FRED HILL ATCHESON

11 1-28-2011 /s/  
12 DATE By: LOREN GRAHAM  
13 Attorneys for Plaintiff  
14  
15  
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11/4/2020

CM/ECF - nvd - District Version 6.3.3

**United States District Court  
District of Nevada (Reno)  
CIVIL DOCKET FOR CASE #: 3:11-cv-00064-HDM-VPC**

Fred v. County of Carson City, et al  
Assigned to: Judge Howard D. McKibben  
Referred to: Magistrate Judge Valerie P. Cooke  
Cause: 42:1983 Civil Rights Act

Date Filed: 01/28/2011  
Date Terminated: 01/24/2012  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Elvin Lee Fred**

represented by **Fred H. Atcheson**  
Fred Hill Atcheson  
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Fax: 775-588-1326  
Email: grahamcole@aol.com  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Jason Bueno**  
*Sheriff Deputy*  
*TERMINATED: 01/05/2012*

represented by **Katherine F. Parks**  
Thorndal, Armstrong, Delk, Balkenbush  
6590 South McCarran Blvd  
Suite B

11/4/2020

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**ATTORNEY TO BE NOTICED**

**Defendant**

**Gary Underhill**  
*Sheriff Deputy*  
**TERMINATED: 01/05/2012**

represented by **Katherine F. Parks**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Carson Nugget, Inc.**  
**TERMINATED: 01/24/2012**

represented by **M. Bradley Johnson**  
Kravitz, Schnitzer, Sloane, Johnson &  
8985 S. Eastern Avenue, Suite 200  
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702-222-4145  
Fax: 702-362-2203  
Email: [bjohnson@ksjattorneys.com](mailto:bjohnson@ksjattorneys.com)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Carson City, County Of**  
**TERMINATED: 01/05/2012**

represented by **Katherine F. Parks**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
01/28/2011	<a href="#"><u>1</u></a>	COMPLAINT BY <i>ELVIN LEE FRED</i> against <del>Elvin Lee Fred</del> <b>County of Carson City, Jason Bueno, Gary Underhill, Carson Nugget, Inc</b> (Filing fee \$ 350 receipt number 0978-1868457), filed by Elvin Lee Fred. Certificate of service due by 2/7/2011. Proof of service due by 5/28/2011.(Graham, Loren) Modified on 5/24/2011 correct who the party is (WJ). (Entered: 01/28/2011)
01/28/2011		Case assigned to District Judge Howard D. McKibben and Magistrate Judge Valerie P. Cooke. (WJ) (Entered: 01/28/2011)
01/31/2011	<a href="#"><u>2</u></a>	NOTICE by Plaintiff Elvin Lee Fred <i>CIVIL COVER SHEET</i> (Graham, Loren) (Entered: 01/31/2011)
01/31/2011	<a href="#"><u>3</u></a>	PROPOSED SUMMONS to be issued, filed by Plaintiff Elvin Lee Fred. (Graham, Loren) (Entered: 01/31/2011)
01/31/2011	<a href="#"><u>4</u></a>	Summons Issued as to Jason Bueno, Carson City, County Of, The Carson Nugget, Inc., Gary Underhill re <a href="#"><u>1</u></a> (Attachments: # <a href="#"><u>1</u></a> Summons Issued as to <i>Jason Bueno</i> , # <a href="#"><u>2</u></a> Summons Issued as to <i>Carson City</i> , # <a href="#"><u>3</u></a> Summons Issued as to <i>Gary Underhill</i> ) (Graham, Loren) (Entered: 01/31/2011)

11/4/2020

CM/ECF - nvd - District Version 6.3.3

		<i>Carson Nugget.</i> )(KO) (Entered: 01/31/2011)
03/04/2011	<a href="#">5</a>	STATEMENT of Disclosure Statement by Plaintiff Elvin Lee Fred. (Atcheson, Fred) (Entered: 03/04/2011)
05/10/2011	<a href="#">6</a>	ANSWER to <a href="#">1</a> Complaint filed by The Carson Nugget, Inc.. Certificate of Interested Parties due by 5/20/2011. Plan/Scheduling Order due by 6/24/2011.(Johnson, Michael) (Entered: 05/10/2011)
05/11/2011	7	NOTICE PURSUANT TO LOCAL RULE IB 2-2: In accordance with 28 USC § 636(c) and FRCP 73, the parties are provided with a link to the "AO 85 Notice of Availability, Consent, and Order of Reference - Exercise of U.S. Magistrate Judge" form on the Court's website - <a href="http://www.nvd.uscourts.gov">www.nvd.uscourts.gov</a> . <b>Consent forms should NOT be filed.</b> Upon consent of all parties, counsel are advised to manually file the form with the Clerk's Office. (no image attached) (DRM) (Entered: 05/11/2011)
05/11/2011	<a href="#">8</a>	CERTIFICATE of Interested Parties filed by The Carson Nugget, Inc.. There are no known interested parties participating in the case. (Johnson, Michael) (Entered: 05/11/2011)
05/13/2011	<a href="#">9</a>	MINUTE ORDER IN CHAMBERS of the Honorable Magistrate Judge Valerie P. Cooke, on 5/13/2011. By LGM. A Case Management Conference is set for 7/6/2011 at 10:00 AM in Reno Courtroom 1 before Magistrate Judge P. Cooke. Out-of-town counsel shall be allowed to appear telephonically for this hearing and shall advise LGM at (775)686-5653 at least two (2) days prior of the telephone number at which counsel can be reached for the conference. The parties shall jointly file a case management report by no later than the close of business on <b>2011</b> . See the attached order for specifications. (Copies have been distributed pursuant to the NEF - LGM) (Entered: 05/13/2011)
05/17/2011	<a href="#">10</a>	ANSWER to <a href="#">1</a> Complaint filed by Jason Bueno, Carson City, County Of, Gary Underhill. Certificate of Interested Parties due by 5/27/2011. Discovery Plan/Scheduling Order due by 7/1/2011.(Parks, Katherine) (Entered: 05/17/2011)
05/18/2011	11	NOTICE PURSUANT TO LOCAL RULE IB 2-2: In accordance with 28 USC § 636(c) and FRCP 73, the parties are provided with a link to the "AO 85 Notice of Availability, Consent, and Order of Reference - Exercise of U.S. Magistrate Judge" form on the Court's website - <a href="http://www.nvd.uscourts.gov">www.nvd.uscourts.gov</a> . <b>Consent forms should NOT be filed.</b> Upon consent of all parties, counsel are advised to manually file the form with the Clerk's Office. (no image attached) (MLC) (Entered: 05/18/2011)
05/23/2011	<a href="#">12</a>	CERTIFICATE of Interested Parties filed by Jason Bueno, Carson City, County Of, Gary Underhill. There are no known interested parties other than those participating in the case. (Parks, Katherine) (Entered: 05/23/2011)
06/30/2011	13	MINUTE ORDER IN CHAMBERS of the Honorable Magistrate Judge Valerie P. Cooke, on 6/30/2011. By LGM. Due to a clerical error concerning the date for the case management conference, this Court's order setting the case management conference <a href="#">9</a> is AMENDED to reflect that a case management conference is set for <b>Wednesday, July 6, 2011 at 10:00 a.m.</b> All other aspects of this court's order <a href="#">9</a> shall remain in effect. The Court notes the parties have not filed a case management report as ordered <a href="#">9</a> ; therefore, counsel are directed to file a joint case management report by <b>12:00 noon on Friday, July 1, 2011</b> . IT IS SO ORDERED. <b>(no image attached)</b> (Copies have been distributed pursuant to the NEF - LGM) (Entered: 06/30/2011)

11/4/2020

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07/01/2011	<a href="#">14</a>	Joint STATUS REPORT <i>Joint Case Management Report</i> by Defendants Jason Bueno, Carson City, County Of, Gary Underhill, Plaintiff Elvin Lee Fred. (Parks, Katherine) (Entered: 07/01/2011)
07/01/2011	<a href="#">15</a>	PROPOSED Discovery Plan/Scheduling Order filed by Defendants Jason Bueno, Carson City, County Of, Gary Underhill, Plaintiff Elvin Lee Fred. (Parks, Katherine) (Entered: 07/01/2011)
07/06/2011	<a href="#">16</a>	MINUTES OF PROCEEDINGS - Case Management Conference held on 7/6/2011 before Magistrate Judge Valerie P. Cooke. Courtroom Administrator: LGM; Pla Counsel: <i>Fred Atcheson and Loren Graham</i> ; Def Counsel: <i>Katherine Parks and Tyler Watson</i> ; Court Reporter/FTR #: 9:58:00 - 10:11:35; Time of Hearing: 9:58 a.m.; Courtroom: 1; Plaintiff's counsel and defendants with initial disclosures, including a computation of damages, by no later than Friday, July 22, 2011. Magistrate Judge approves and signs the parties' discovery plan and scheduling order <a href="#">15</a> in open court. A Case Management Conference is set for 10/6/2011 at 09:00 AM in Reno Courtroom 1 before Magistrate Judge Valerie P. Cooke. Counsel shall file a Case Management Report and case management report outlining the status of discovery by no later than Tuesday, October 4, 2011. See the Case Management Report specifications. (Copies have been distributed pursuant to the NEF - LGM) (Entered: 07/06/2011)
07/06/2011	<a href="#">17</a>	SCHEDULING ORDER re <a href="#">15</a> Proposed Order : Discovery due by 11/7/2011. Motions due by 12/7/2011. Pretrial Order due by 1/6/2012. Signed by Magistrate Judge Valerie P. Cooke on 7/6/2011. (Copies have been distributed pursuant to the NEF - DRM) (Entered: 07/07/2011)
09/07/2011	<a href="#">18</a>	STIPULATION FOR EXTENSION OF TIME (First Request) by Plaintiff Elvin Lee Fred. (Atcheson, Fred) (Entered: 09/07/2011)
09/13/2011	<a href="#">19</a>	MINUTE ORDER IN CHAMBERS of the Honorable Magistrate Judge Valerie P. Cooke, on 9/13/2011. By Magistrate Judge Valerie P. Cooke. The parties have submitted a stipulation to extend the expert witness deadline to 11/8/2011 which is the discovery deadline in this case. The stipulation <a href="#">18</a> is GRANTED. The parties proposed no other changes to the scheduling order <a href="#">17</a> ; therefore, the remaining provisions of the scheduling order shall remain in full force and effect. SO ORDERED. (Copies have been distributed pursuant to the NEF - MLC) (Entered: 09/13/2011)
10/04/2011	<a href="#">20</a>	STIPULATION FOR EXTENSION OF TIME (First Request) <i>STIPULATION AND ORDER TO EXTEND DISCOVERY AND RELATED DEADLINES</i> by Defendants Jason Bueno, Carson City, County Of, Gary Underhill. (Parks, Katherine) (Entered: 10/04/2011)
10/04/2011	<a href="#">21</a>	Second STATUS REPORT by Defendants Jason Bueno, Carson City, County Of, The Carson Nugget, Inc., Gary Underhill, Plaintiff Elvin Lee Fred. (Parks, Katherine) (Entered: 10/04/2011)
10/06/2011	<a href="#">22</a>	SCHEDULING ORDER re <a href="#">20</a> Stipulation. Discovery due by 1/8/2012. Motions due by 2/7/2012. Proposed Pretrial Order due by 3/6/2012. <b>There will be no further extensions granted.</b> Signed by Magistrate Judge Valerie P. Cooke on 10/6/2011. (Copies have been distributed pursuant to the NEF - DRM) (Entered: 10/06/2011)
10/06/2011	<a href="#">23</a>	MINUTES OF PROCEEDINGS - Case Management Conference held on 10/6/2011 before Magistrate Judge Valerie P. Cooke. Courtroom Administrator: LGM; Pla Counsel: <i>Fred Atcheson and Loren Graham</i> ; Def Counsel: <i>Katherine Parks and Tyler Watson</i> ; Court Reporter/FTR #: 9:00:12 - 9:09:00; Time of Hearing: 9:00 a.m.; Courtroom: 1; The Court approves the parties' stipulation to extend discovery and related deadlines <a href="#">20</a> . There will be no further extensions of this scheduling order. A Case Management Conference is set for 11/7/2011 at 09:00 AM in Reno Courtroom 1 before Magistrate Judge Valerie P. Cooke. (Copies have been distributed pursuant to the NEF - LGM) (Entered: 10/06/2011)

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		Judge Valerie P. Cooke. All counsel shall file a joint or separate case management report by no later than the on <b>Thursday, November 3, 2011</b> . See the attached order for specifications. (Copies have been distributed pursuant to the NEF - LGM) (Entered: 10/06/2011)
11/03/2011	<a href="#">24</a>	STATUS REPORT by Plaintiff Elvin Lee Fred. (Atcheson, Fred) (Entered: 11/03/2011)
11/03/2011	<a href="#">25</a>	STIPULATION re <a href="#">23</a> Miscellaneous Hearing,,, ; <i>Stipulation and Order to Vacate Case Management Conference</i> Jason Bueno, Carson City, County Of, Gary Underhill. (Parks, Katherine) (Entered: 11/03/2011)
11/03/2011	<a href="#">26</a>	ORDER GRANTING <a href="#">25</a> Stipulation to Vacate Case Management Conference scheduled for 11/7/2011 at 9:00 AM. request that a subsequent Case Management Conference be scheduled in approximately thirty (30) days. Signed by Judge Valerie P. Cooke on 11/3/2011. (Copies have been distributed pursuant to the NEF - MLC) (Entered: 11/03/2011)
11/04/2011	27	MINUTE ORDER IN CHAMBERS of the Honorable Magistrate Judge Valerie P. Cooke, on 11/4/2011. By LGM. Pursuant to this Court's order <a href="#">26</a> , the case management conference set for 11/7/2011 is VACATED and RESCHEDULED for 12/6/2011 at 10:00 AM in Reno Courtroom 1 before Magistrate Judge Valerie P. Cooke. ORDERED.(no image attached) (Copies have been distributed pursuant to the NEF - LGM) (Entered: 11/04/2011)
11/04/2011	28	MINUTE ORDER IN CHAMBERS of the Honorable Magistrate Judge Valerie P. Cooke, on 11/4/2011. By LGM. In preparation for the case management conference set for December 6, 2011 at 10:00 AM, all counsel shall file a joint or separate case management report by no later than the close of business on <b>Friday, December 2, 2011</b> . ORDERED. (no image attached) (Copies have been distributed pursuant to the NEF - LGM) (Entered: 11/04/2011)
12/02/2011	<a href="#">29</a>	STATUS REPORT by Plaintiff Elvin Lee Fred. (Atcheson, Fred) (Entered: 12/02/2011)
12/02/2011	<a href="#">30</a>	Third STATUS REPORT by Defendants Jason Bueno, Carson City, County Of, Gary Underhill. (Parks, Katherine) (Entered: 12/02/2011)
12/02/2011	<a href="#">31</a>	STATUS REPORT by Defendant The Carson Nugget, Inc.. (Johnson, Michael) (Entered: 12/02/2011)
12/06/2011	32	MINUTES OF PROCEEDINGS - Case Management Conference held on 12/6/2011 before Magistrate Judge Valerie P. Cooke. Crtrm Administrator: LGM; Pla Counsel: <i>Fred Atcheson and Loren Graham</i> ; Def Counsel: <i>Katherine Parks, Tyler Watson</i> ; Court Reporter/FTR #: 9:51:40 - 9:55:53; Time of Hearing: 9:51 a.m.; Courtroom: 1; The Court heard the parties regarding the purpose of this hearing. The Court notes it has reviewed the parties' case management report <a href="#">31</a> . Counsel advise that plaintiff and the Carson City defendants have reached a settlement. Therefore, the Court grants the dismissal with prejudice shall be filed by no later than the close of business on <b>Monday, December 19, 2011</b> . The status of the case concerning the remaining defendants. Court adjourns.(no image attached) (Copies have been distributed pursuant to the NEF - LGM) (Entered: 12/08/2011)
12/15/2011	<a href="#">33</a>	STIPULATION of Dismissal <i>Stipulation and Proposed Order of Dismissal of Defendants Carson City, Gary Underhill, Jason Bueno</i> by Defendants Jason Bueno, Carson City, County Of, Gary Underhill. (Parks, Katherine) (Entered: 12/15/2011)
01/05/2012	<a href="#">34</a>	ORDER ON <a href="#">33</a> Stipulation of Dismissal. IT IS HEREBY ORDERED that this matter be dismissed with prejudice. Defendants COUNTY OF CARSON CITY, JASON BUENO, and GARY UNDERSHILL, only, and each party shall bear their own costs. (no image attached) (Entered: 01/05/2012)

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		own costs and attorney's fees. Signed by Judge Howard D. McKibben on 1/5/2012. (Copies have been distributed to the NEF - KO) (Entered: 01/05/2012)
01/20/2012	<a href="#">35</a>	STIPULATION of Dismissal by Defendant The Carson Nugget, Inc.. (Johnson, Michael) (Entered: 01/20/2012)
01/24/2012	<a href="#">36</a>	ORDER ON <a href="#">35</a> Stipulation of Dismissal. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the stipulation of the parties, The Carson Nugget, Inc., shall be dismissed from this action with prejudice. FURTHER ADJUDGED, AND DECREED that all parties are responsibly for their own attorneys' fees and costs. The action is terminated. Signed by Judge Howard D. McKibben on 1/24/2012. (Copies have been distributed pursuant to the NEF - KO) (Entered: 01/24/2012)

PACER Service Center			
Transaction Receipt			
11/04/2020 12:25:34			
<b>PACER Login:</b>	Jsilvestri:2617752:0	<b>Client Code:</b>	14005.003
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	3:11-cv-00064-HDM-VPC
<b>Billable Pages:</b>	5	<b>Cost:</b>	0.50

1 Katherine F. Parks, Esq.  
State Bar No. 6227  
2 Thorndal, Armstrong, Delk, Balkenbush & Eisinger  
6590 S. McCarran, Suite B  
3 Reno, Nevada 89509  
Attorneys for Defendants  
4 County of Carson City, Deputy Jason Bueno, Deputy Gary Underhill

5  
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE

8  
9 ELVIN LEE FRED,

Plaintiff,

CASE NO. 3:11-CV-00064-HDM-VPC

10 vs.

**ANSWER TO COMPLAINT**

11 COUNTY OF CARSON CITY, a municipal  
12 corporation; SHERIFF'S DEPUTY JASON  
BUENO; SHERIFF'S DEPUTY GARY  
13 UNDERHILL; and the CARSON NUGGET,  
INC., a Nevada corporation,

14 Defendants.  
15

16 COMES NOW Defendants, COUNTY OF CARSON CITY, SHERIFF'S DEPUTY  
17 JASON BUENO and DEPUTY GARY UNDERHILL, by and through their attorneys, Thorndal,  
18 Armstrong, Delk, Balkenbush & Eisinger, and in answer to Plaintiff's Complaint, hereby admit,  
19 deny, and allege as follows:

20 **FIRST DEFENSE**

21 **I**

22 Defendants are without sufficient knowledge or information with which to form a belief  
23 as to the truth of the allegations contained in Paragraphs 1, 2, 3, 7 and 12 of Plaintiff's  
24 Complaint, and upon such basis denies said allegations.

25 **II**

26 Defendants admit the allegations contained in Paragraphs 4 and 6 of Plaintiff's  
27 Complaint.

28 \* \* \*

1 **III**

2 In answer to Paragraph 5 of Plaintiff's Complaint, Defendants admit that Carson City is a  
3 political subdivision of the State of Nevada.

4 **IV**

5 Defendants deny the allegations contained in Paragraphs 8, 9, 10, 11, 13, 14, 15, 16, 17,  
6 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35 of Plaintiff's Complaint.

7 **FIRST CLAIM: UNLAWFUL ARREST**

8 **I**

9 In answer to Paragraph 36 of Plaintiff's Complaint, Defendants repeat and reallege each  
10 and every answering paragraph to Paragraphs 1 through 35 as though fully set forth herein at  
11 length.

12 **II**

13 Defendants deny the allegations contained in Paragraphs 37, 38 and 39 of Plaintiff's  
14 Complaint.

15 **SECOND CLAIM: EXCESSIVE FORCE**

16 **I**

17 In answer to Paragraph 40 of Plaintiff's Complaint, Defendants repeat and reallege each  
18 and every answering paragraph to Paragraphs 1 through 39 as though fully set forth herein at  
19 length.

20 **II**

21 Defendants deny the allegations contained in Paragraphs 41 and 42 of Plaintiff's  
22 Complaint.

23 **THIRD CLAIM: ASSAULT AND BATTERY**

24 **I**

25 In answer to Paragraph 43 of Plaintiff's Complaint, Defendants repeat and reallege each  
26 and every answering paragraph to Paragraphs through 42 as though fully set forth herein at  
27 length.

28 \* \* \*



**II**

Defendants deny the allegations contained in Paragraphs 44, 45 and 46 of Plaintiff's Complaint.

**FOURTH CLAIM: FALSE IMPRISONMENT**

**I**

In answer to Paragraph 47 of Plaintiff's Complaint, Defendants repeat and reallege each and every answering paragraph to Paragraphs 1 through 46 as though fully set forth herein at length.

**II**

Defendants deny the allegations contained in Paragraphs 48, 49, 50 and 51 of Plaintiff's Complaint.

**FIFTH CLAIM: GROSS NEGLIGENCE AGAINST NUGGET**

**I**

In answer to Paragraph 52 of Plaintiff's Complaint, Defendants repeat and reallege each and every answering paragraph to Paragraphs 1 through 51 as though fully set forth herein at length.

**II**

The allegations contained in Paragraphs 53, 54, 55 and 56 of Plaintiff's Complaint do not appear to apply to these answering Defendants. To the extent the paragraphs to apply to these answering Defendants, Defendants deny the allegations contained therein.

**III**

Defendants deny the allegations contained in Paragraphs 57 and 58 of Plaintiff's Complaint.

**SIXTH CLAIM FOR RELIEF: CIVIL CONSPIRACY**

**I**

In answer to Paragraph 59 of Plaintiff's Complaint, Defendants repeat and reallege each and every answering paragraph to Paragraphs 1 through 58 as though fully set forth herein at length.

**II**

Defendants deny the allegations contained in Paragraphs 60 and 61 of Plaintiff's Complaint.

**SEVENTH CLAIM: MALICIOUS PROSECUTION**

**I**

In answer to Paragraph 62 of Plaintiff's Complaint, Defendants repeat and reallege each and every answering paragraph to Paragraphs 1 through 61 as though fully set forth herein at length.

**II**

Defendants deny the allegations contained in Paragraphs 63 and 65 of Plaintiff's Complaint.

**III**

Defendants are without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 64 of Plaintiff's Complaint, and upon such basis deny said allegations.

**SECOND DEFENSE**

Plaintiff's Complaint on file herein fails to state a claim against Defendants upon which relief can be granted.

**THIRD DEFENSE**

Based upon information and belief, Plaintiff may have failed to mitigate his damages.

**FOURTH DEFENSE**

Pursuant to NRS 41.141, in the event recovery is allowed against more than one defendant in this action, then the liability of these answering Defendants, if any, shall be several to the Plaintiff only for that portion of the judgment which represents the percentage of negligence attributable to these answering Defendants.

**FIFTH DEFENSE**

At all times and places alleged in Plaintiff's Complaint, the negligence, misconduct, and fault of Plaintiff exceeds that of these answering Defendants, if any, and Plaintiff is thereby

1 barred from any recovery against these Defendants.

2 **SIXTH DEFENSE**

3 All risks and dangers involved in the factual situation described in Plaintiff's Complaint  
4 were open, obvious, and known to Plaintiff and Plaintiff voluntarily assumed said risks and  
5 dangers.

6 **SEVENTH DEFENSE**

7 It has been necessary for Defendants to employ the services of an attorney to defend this  
8 action, and a reasonable sum should be allowed Defendants as and for attorney's fees, together  
9 with its costs expended in this action.

10 **EIGHTH DEFENSE**

11 Defendants allege that at all times and places alleged in the Complaint, Plaintiff did not  
12 exercise ordinary care, caution or prudence in the premises to avoid the loss herein complained  
13 of, and that same was directly and proximately contributed to and caused by the negligence,  
14 misconduct and fault of the Plaintiff.

15 **NINTH DEFENSE**

16 The damages, if any, incurred by Plaintiff are not attributable to any act, conduct, or  
17 omission on the part of these Defendants; Defendants deny that they were negligent in any  
18 manner or in any degree with respect to the matters set forth in Plaintiff's Complaint.

19 **TENTH DEFENSE**

20 Defendants' alleged actions or omissions were taken with due care in the execution of the  
21 statutes and regulations, and, therefore, Defendants are statutorily immune from this action.

22 **ELEVENTH DEFENSE**

23 Defendants' alleged actions or omissions occurred in the exercise or performance of  
24 discretionary functions and duties, and, therefore, Defendants are statutorily immune from this  
25 action.

26 **TWELFTH DEFENSE**

27 An award of punitive damages against Defendants would be violative of the Fifth  
28 Amendment of the United States Constitution in that there is no assurance against multiple,

1 unrestrained punishment in the form of punitive damages. Such an award of punitive damages  
2 would be violative of the double jeopardy provisions of the Nevada Constitution, Art. I, §8.

3 **THIRTEENTH DEFENSE**

4 An award of punitive damages against Defendants would be violative of the due process  
5 clause of the United States Constitution, the Fourteenth Amendment, §1, and violative of the due  
6 process clause of the Nevada Constitution, Art. I, §8.

7 **FOURTEENTH DEFENSE**

8 An award of punitive damages against Defendants would constitute an undue burden  
9 upon interstate commerce and violate the interstate commerce clause of the United States  
10 Constitution, Art. I, §8.

11 **FIFTEENTH DEFENSE**

12 An award of punitive damages against Defendants would constitute an excessive fine  
13 violative of the Nevada Constitution, Art. I, §7.

14 **SIXTEENTH DEFENSE**

15 An award of punitive damages against Defendants should be barred since Plaintiff cannot  
16 establish that Defendants had an "evil mind" and "conducted themselves in an aggravated and  
17 outrageous manner."

18 **SEVENTEENTH DEFENSE**

19 The occurrence referred to in Plaintiff's Complaint, and all damages, if any, arising  
20 therefrom, were caused by the acts or omissions of a third person or persons over whom these  
21 Defendants had no control.

22 **EIGHTEENTH DEFENSE**

23 Upon information and belief, Defendants allege that Plaintiff's causes of action as set  
24 forth in the Complaint are barred by the statute of limitations as contained in Chapter 11 of the  
25 Nevada Revised Statutes and those applicable to Plaintiff's claims brought under 42 U.S.C.  
26 §1983.

27 **NINETEENTH DEFENSE**

28 The burden of proof on punitive damages should be by clear and convincing evidence.

**TWENTIETH DEFENSE**

Defendants are entitled to qualified good faith immunity.

**TWENTY FIRST DEFENSE**

To the extent Plaintiff's complaint asserts state tort claims, their recovery is limited to the sum of \$75,000.00 by virtue of the provisions of Chapter 41 of the Nevada Revised Statutes.

**TWENTY SECOND DEFENSE**

Probable cause existed for the arrest of Plaintiff Elvin Lee Fred.

**TWENTY THIRD DEFENSE**

Punitive damages are not recoverable against these answering Defendants concerning any state tort claims asserted in Plaintiff's complaint by virtue of the provisions of Chapter 41 of the Nevada Revised Statutes.

**TWENTY FOURTH DEFENSE**

No unlawful custom or policy exists in Carson City as alleged in Plaintiff's Complaint.

**TWENTY FIFTH DEFENSE**

Plaintiff is constrained from invoking equitable jurisdiction and an equitable remedy because Plaintiff has not come before this Court with clean hands.

**TWENTY-SIXTH DEFENSE**

Plaintiff is estopped from asserting any cause of action whatever against Defendants.

**TWENTY-SEVENTH DEFENSE**

Plaintiff, by his acts and conduct, has waived and abandoned any and all claims as alleged herein against these Defendants.

**TWENTY-EIGHTH DEFENSE**

Pursuant to FRCP Rule 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available to Defendants after reasonable inquiry upon the filing of Defendants' Answer, and therefore, Defendants reserve the right to amend this Answer to allege additional affirmative defenses if subsequent investigation so warrants.

WHEREFORE, Defendants pray:

1           1. That Plaintiff's Complaint be dismissed with prejudice and that he take nothing  
2 thereby;

3           2. That Defendants be awarded a reasonable attorney's fee and costs of suit; and

4           3. For such other and further relief as this Court deems just and proper.

5           DATED this 17<sup>th</sup> day of May, 2011.

6                                   THORNDAL, ARMSTRONG,  
7                                   DELK, BALKENBUSH & EISINGER

8                                   By: /s/ Katherine F. Parks

9                                   Katherine F. Parks, Esq.

10                                  State Bar No. 6227

11                                  6590 S. McCarran Blvd., Suite B

12                                  Reno, Nevada 89509

13                                  Attorneys for Defendants

14                                  County of Carson City, Deputy Jason Bueno,

15                                  Deputy Gary Underhill

**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of Thorndal, Armstrong, Delk, Balkenbush & Eisinger, and that on this I electronically filed the foregoing **ANSWER TO COMPLAINT** with the Clerk of the above-entitled Court, which will serve the following electronically:

<u>Attorney</u>	<u>Phone/Fax/E-Mail</u>	<u>Party Represented</u>
<b>Fred H. Atcheson, Esq.</b> 930 Evans Avenue Reno, NV 89512	Phone: 775-322-5255 Fax: 775-786-9658 E-Mail: <a href="mailto:fhatcheson@washoelegalserVICES.org">fhatcheson@washoelegalserVICES.org</a>	Plaintiff Elvin Lee Fred
<b>Loren Graham, Esq.</b> Post Office Box 6329 Lake Tahoe, NV 89449	Phone: 775-588-5138 Fax: 775-588-1326 E-Mail: <a href="mailto:grahamcole@aol.com">grahamcole@aol.com</a>	Plaintiff Elvin Lee Fred
<b>M. Bradley Johnson, Esq.</b> Christian, Kravitz, Dichter & Johnson, LLC 8985 S. Eastern Avenue, Suite 200 Las Vegas, NV 89123	Phone: 702-362-6666 Fax: 702-992-1000 E-Mail: <a href="mailto:bjohnson@kssattorneys.com">bjohnson@kssattorneys.com</a>	Defendant The Carson Nugget, Inc.

DATED this 17<sup>th</sup> day of May, 2011.

/s/ Mary C. Wilson

An employee of Thorndal, Armstrong,  
Delk, Balkenbush & Eisinger

1 Katherine F. Parks, Esq.  
State Bar No. 6227  
2 Thorndal, Armstrong, Delk, Balkenbush & Eisinger  
6590 S. McCarran, Suite B  
3 Reno, Nevada 89509  
Attorneys for Defendants  
4 County of Carson City, Deputy Jason Bueno, Deputy Gary Underhill

5  
6 IN THE UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

8 ELVIN LEE FRED,

Plaintiff,

CASE NO. 3:11-CV-00064-HDM-VPC

9 vs.

10  
11 COUNTY OF CARSON CITY, a municipal  
corporation; SHERIFF'S DEPUTY JASON  
12 BUENO; SHERIFF'S DEPUTY GARY  
UNDERHILL; and the CARSON NUGGET,  
13 INC., a Nevada corporation,

14 Defendants.

**STIPULATION AND ORDER FOR  
DISMISSAL WITH PREJUDICE**

15 COME NOW Plaintiff, ELVIN LEE FRED, and Defendants, COUNTY OF CARSON  
16 CITY, SHERIFF'S DEPUTY JASON BUENO and DEPUTY GARY UNDERHILL, by and  
17 through their respective counsel and Rule 41 of the Federal Rules of Civil Procedure, hereby  
18 stipulate that the above-entitled matter may be dismissed with prejudice as to Defendants,  
19 COUNTY OF CARSON CITY, JASON BUENO and GARY UNDERSHILL, only, and each  
20 party to bear their own costs and attorney's fees.

21 Dated: 12/15/11

Dated: 12/15/11

22 LAW OFFICES OF FRED H. ATCHESON

LAW OFFICES OF LOREN GRAHAM

23  
24 By: 

By: 

25 Fred H. Atcheson, Esq.  
Post Office Box 8292  
Reno, NV 89507  
26 Attorney for Plaintiff

Loren Graham, Esq.  
Post Office Box 6329  
Lake Tahoe, NV 89449  
Attorney for Plaintiff



1 Dated: December 15, 2011

2 THORNDAL, ARMSTRONG,  
3 DELK, BALKENBUSH & EISINGER

4 By: /s/ Katherine F. Parks  
5 Katherine F. Parks, Esq.  
6 6590 S. McCarran Blvd., Suite B  
7 Reno, Nevada 89509  
8 Attorneys for Defendants  
9 County of Carson City, Deputy Jason  
10 Bueno, Deputy Gary Underhill

11 IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

12 \_\_\_\_\_  
13 DISTRICT COURT JUDGE

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Emily A. Buchwald, Esq., Bar No. 13442  
EAB@pisanellibice.com  
John A. Fortin, Esq., Bar No. 15221  
JAF@pisanellibice.com  
PISANELLI BICE PLLC  
400 South 7th Street, Suite 300  
Las Vegas, Nevada 89101  
Telephone: 702.214.2100

Attorneys for Sylvia Fred

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

In Re:

Case No.: 15 OC 00074 1B  
Dept. No.: 2

3587 Desatoya Drive, Carson City, Nevada  
89701, more particularly described as all that  
certain parcel of land situate in the City of  
Carson City, County of Carson City and State  
of Nevada, being known as designated as  
follows: Parcel N-33 as shown on Parcel Map  
No. 1704 of Stanton Park Development, Inc.,  
filed in the office of the Recorder of Carson  
City, Nevada on August 11, 1989 as File No.  
89253, Carson City Assessor's Parcel Number:  
010-443-11.

DECLARATION OF CAROL M. TOOHEY  
TO AUTHENTICATE BUSINESS  
RECORDS

I, CAROL TOOHEY, declare as follows:

1. I am a resident of the State of Nevada and I have personal knowledge of the facts  
herein, and can and do competently testify thereto.

2. I have been a licensed real estate agent in Carson City, Nevada for over 30 years  
and I am employed by Century 21 Jim Wilson Realty located at 1502 N. Carson St. # 1, Carson  
City, Nevada 89701. *As of June 10, 2021 (name only) changed to*

3. Between March 2012 and June 2012, I represented Elvin Fred ("Elvin") as his real  
estate agent in connection with the purchase of the property located at 3587 Desatoya Drive,  
Carson City, Nevada 89701. *CMY "Century 21 Americana"*

4. In mid-November 2021, John A. Fortin, Esq., contacted me in regards to any  
records I may possess from the 3587 Desatoya Drive transaction with Elvin. I searched my

1 records and found the purchase file. Based on Mr. Fortin's request, I then looked for, found, and  
2 reviewed the purchase file in order to refresh my recollection of the transaction. I am the  
3 custodian of records for all real estate transactions I handle and the purchase file was in the  
4 storage area I keep all of my business records.

5 5. I affirm that the documents Bates Stamped FRED0001 through FRED0197 are  
6 copies of the original business records and notes that were made by me during the 2012 3587  
7 Desatoya Drive transaction. These are records I possessed and I maintained in the regular course  
8 of my business as Elvin's real estate agent. I examined all of these documents included in the  
9 reproduction that Mr. Fortin Bates Stamped as FRED0001 through FRED0197 and they are true  
10 and complete copies of my business records.

11 6. After reviewing the entire purchase file to refresh my recollection, I recall that  
12 Elvin approached me in late March, early April 2012 and was very interested in purchasing a  
13 home for cash. The handwritten note on FRED0022 is my handwriting and relates to the initial  
14 intake conversation I had with Elvin.

15 7. As a business practice and habit, I always take notes during meetings regarding  
16 potential real estate transactions, especially the initial intake interview with a new client. I  
17 recognize my handwriting and I know that these notes were made by me during the initial intake  
18 meeting I had with Elvin.

19 8. As the intake notes detail, Elvin represented that he had been renting a trailer off  
20 of Highway 50 and that he had \$60,000 in funds to purchase a home. The full purchase price of  
21 the home was \$71,099.92. I know that Elvin obtained the additional funds from someone else  
22 and purchased the home without any need for a mortgage.

23 9. Based on my review of the entire file, my memory was refreshed and I recall  
24 several interactions with several other members of the Fred family including Elvin's girlfriend,  
25 his children, his siblings, and his mother. During all of these interactions both Elvin and the rest  
26 of the Fred family explained that the 3587 Desatoya Drive property would be a family home for  
27 the Fred's. Throughout all of my interactions with Elvin, he was always deeply committed to  
28 taking care of his family members.



PISANELLI BICE  
400 SOUTH 7TH STREET, SUITE 300  
LAS VEGAS, NEVADA 89101

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10. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 24<sup>th</sup> day of February, 2022.

  
CAROL M. TOOHEY



PURCHASER'S



REMITTER

SYLVIA FRED

PAYABLE TO

\*\*\*SYLVIA FRED\*\*\*

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CASHIER'S CHE

11 1588 11

PURCHASER'S P



REMITTER

SYLVIA FRED

PAYABLE TO

**\*\*SYLVIA FRED\*\***

NOT N

THE FOLLOWING IS A  
TRUE COPY OF THE

**CASHIER'S CHECK**

158834

----- Forwarded message -----

From: [HistoricalRequests@moneygram.com](mailto:HistoricalRequests@moneygram.com) <[historicalrequests@moneygram.com](mailto:historicalrequests@moneygram.com)>

Date: Wed, Nov 24, 2021 at 5:43 AM

Subject: TRANSACTION HISTORY: SYLVIA FRED

To: [sylviafred521@gmail.com](mailto:sylviafred521@gmail.com) <[sylviafred521@gmail.com](mailto:sylviafred521@gmail.com)>

**IMPORTANT:**  
Avoid unnecessary delays,  
do not reply to this email

Dear customer,

We have received your documentation. However, I must inform you our research is limited to the last seven years only. Please, choose a different period or you can also obtain your refund if you prefer.

**IMPORTANT: Do not reply to this email**

For a quick response please [create a new message](#) with subject title "Historical Follow up + your name" and send the copy of your ID to:

[HistoricalRequests@moneygram.com](mailto:HistoricalRequests@moneygram.com)

Do not use fax

The historical report will be sent by email once your request meets all the conditions.

Thank you for using MoneyGram, and we hope to serve you in the future.

Cordialement,

**Octavio Ramirez**

Operations Oversight, Analyst I

**MoneyGram International**

KBC, [13 Konstruktorska](#) Street

FRED0226  
APEN000035  
PA000781

02-673 Warsaw, Poland

This message may contain confidential information. If you are not the intended recipient, please notify the sender immediately and delete this email from your system

MoneyGram Payment Systems Poland sp. z o.o. z siedziba w Warszawie (01-673) przy [ul. Konstruktorskiej 13](#) (VI piętro), zarejestrowany w rejestrze przedsiębiorców Krajowego Rejestru Sądowego przez Sąd Rejonowy dla m. st. Warszawy, XIII Wydział Gospodarczy KRS pod numerem KRS 0000521011, posiadający NIP 521-36-77-829 oraz kapitał zakładowy w wysokości 355 000 zł w całości wpłacony.

MoneyGram Payment Systems Poland sp. z o.o. with its registered office at [ul. Konstruktorska 13](#), (VI floor), 02-673 Warsaw entered in the register of entrepreneurs of the National Court Register maintained by the District Court for the capital city of Warsaw, 13th Commercial Division under number KRS 0000521011, taxpayer identification number NIP: 521-36-77-829 with the share capital amounting to PLN 355,000 fully paid-up.



ref:\_00D30k70F.\_5003Z1KzIwE:ref

FRED0227

APEN000036

PA000782



BALDWIN  
STATE BANK



PO Box 46 • 8th & High  
Baldwin City, KS 66006  
(785) 594-6421

NOTICE

Members  
are not bank  
and not  
of the  
Federal Reserve  
System

Each deposit insured to at least \$250,000  
**FDIC**  
Federal Deposit Insurance Corporation (FDIC)

12/1/21

To whom it may concern:

We were contacted by Sylvia Fred in regards to a checking account she may have held here at one time. However, our bank shreds all banking records of closed accounts after five years. I apologize that we can be of no help at this time.

*Kim Farmer*

Kim Farmer  
Head Teller

FRED0228  
APEN000037

PA000783



### Commission Disbursement Authorization

FHLMC Loan #  
702592513

Asset ID #  
946780

Closing Attorney/Escrow Name  
AUDREY BRYAN

Property Address  
3597 DESATOYA DR, CARSON CITY, NV, 89701

Buyers Name  
Elvin Fred

Sales Price \$ 69900.00

Approved Commission 5.00 % of \$ 3495.00 ✓

#### INSTRUCTIONS TO PAY COMMISSION

Listing Broker

Amount \$ 1747.50 ✓ % 2.50 ✓

Listing Broker Bonus (if applicable): \$ N/A

Company Name: COLDWELL BANKER SELECT REAL ESTATE

Address: 330 E MAIN ST #A

City/State: FERNLEY / NV 89408

Listing Broker Name: MIKE SPECCHIO ✓

Selling Broker

Amount \$ 1747.50 ✓ % 2.50 ✓

Selling Broker Bonus (if applicable): \$ N/A

Company Name: Century 21 Jim Wilson Realty

→ X Address: 1502 N. Carson St., Ste. 1

X City/State: Carson City NV 89701

Selling Broker Name: Carol Marie Toohay ✓

**TOTAL COMMISSION** (excluding incentives and/or bonuses) Amount \$3495.00

THIS COMMISSION INSTRUCTION IS IRREVOCABLE ON THE PART OF THE UNDERSIGNED.

Federal Home Loan Mortgage Corporation

Seller: R. Olsen

APR 23 2012

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

By: Rande D. Jensen  
It's Assistant Secretary

FEDERAL HOME LOAN MORTGAGE CORPORATION  
BY MALCOLM & CISNEROS, A LAW CORPORATION  
IT'S ATTORNEY IN FACT

The above named Brokers hereby approve the above commission and/or referral fee and demand is hereby made for the same at the close of escrow.

Listing Broker Name  
MIKE SPECCHIO

Broker Signature

License No: 13.6924 ✓

Selling Broker Name

Carol Marie Toohay

Broker Signature

X Carol Marie Toohay  
License No: 28378 ✓

FRED0052  
APEN000038  
PA000784

**Harmony Escrow, Inc.**  
17100 Gillette Avenue, Irvine, CA 92614  
Tel: (949) 660-0050 • Fax: (949) 660-1051

**BUYER/BORROWER STATEMENT**  
Estimated

Escrow Number: 21951FD  
Escrow Officer: Fernando T Dominguez

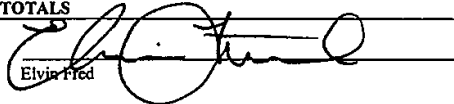
Title Order Number: 2924573  
Date: 04/28/2012 - 9:16:56AM  
Closing Date: 05/15/2012

Buyer/Borrower: Elvin Fred

Seller: Federal Home Loan Mortgage Corporation  
By: Malcolm & Cisneros, a law Corporation, it's Attorney in Fact

Property: 3587 Desatoya Drive, Carson City, NV 89701

DESCRIPTION	DEBITS	CREDITS
<b>TOTAL CONSIDERATION</b>	69,900.00	
Earnest Money		1,000.00
<b>PRORATIONS/ADJUSTMENTS:</b>		
Property Tax @ 298.00 per 3 month(s) 5/15/2012 to 7/01/2012	152.31	
<b>TITLE CHARGES</b>		
Deed Recording Fee: ServiceLink	85.00	
County Transfer Tax: ServiceLink	272.61	
Courier Fee: ServiceLink	25.00	
<b>ESCROW CHARGES TO: Harmony Escrow, Inc.</b>		
Escrow Fee	340.00	
Document Preparation Fee	150.00	
Wire Processing/Bank Charge(s)	25.00	
Refundable Pad	150.00	
<b>BALANCE DUE TO ESCROW</b>		70,099.92
<b>TOTALS</b>	71,099.92	71,099.92

  
Elvin Fred

THIS IS AN ESTIMATED CLOSING STATEMENT FIGURES ARE SUBJECT TO CHANGE

FRED0053  
APEN000039

PA000785

OMB No. 2502-0265

<p style="text-align: center;">ESTIMATE</p> <p style="text-align: center;"><b>A. SETTLEMENT STATEMENT (HUD-1)</b></p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">B. TYPE</td> <td colspan="2" style="text-align: center;">LOAN</td> </tr> <tr> <td>1. <input type="checkbox"/> FIA</td> <td>2. <input type="checkbox"/> RLS</td> <td>3. <input type="checkbox"/> CONV. UNINS.</td> <td></td> </tr> <tr> <td>4. <input type="checkbox"/> VA</td> <td>5. <input type="checkbox"/> CONV. INS.</td> <td></td> <td></td> </tr> <tr> <td colspan="2">6. FILE NUMBER: 21231FD</td> <td colspan="2">7. LOAN NUMBER</td> </tr> <tr> <td colspan="4">8. MORTGAGE INS. CASE NO.:</td> </tr> </table>	B. TYPE		LOAN		1. <input type="checkbox"/> FIA	2. <input type="checkbox"/> RLS	3. <input type="checkbox"/> CONV. UNINS.		4. <input type="checkbox"/> VA	5. <input type="checkbox"/> CONV. INS.			6. FILE NUMBER: 21231FD		7. LOAN NUMBER		8. MORTGAGE INS. CASE NO.:			
B. TYPE		LOAN																			
1. <input type="checkbox"/> FIA	2. <input type="checkbox"/> RLS	3. <input type="checkbox"/> CONV. UNINS.																			
4. <input type="checkbox"/> VA	5. <input type="checkbox"/> CONV. INS.																				
6. FILE NUMBER: 21231FD		7. LOAN NUMBER																			
8. MORTGAGE INS. CASE NO.:																					

C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. NAME & ADDRESS OF BORROWER:	Elvin Fred
E. NAME & ADDRESS OF SELLER:	Exhibit "A" Attached Hereto
F. NAME & ADDRESS OF LENDER:	
G. PROPERTY LOCATION:	3587 Desatoya Drive, Carson City, NV 89701
H. SETTLEMENT AGENT:	Harmony Escrow, Inc.
PLACE OF SETTLEMENT:	17100 Gillette Avenue, Irvine, CA 92614 (949) 660-0050
I. SETTLEMENT DATE:	5/15/2012

J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction	
<b>100. Gross Amount Due From Borrower:</b>		<b>400. Gross Amount Due To Seller:</b>	
101. Contract sales price	69,900.00	401. Contract sales price	
102. Personal property		402. Personal property	
103. Settlement charges to borrower: (line 1400)	1,047.61	403.	
104.		404.	
105.		405.	
<b>Adjustments For Items Paid By Seller In Advance:</b>		<b>Adjustments For Items Paid By Seller In Advance:</b>	
106. City/town taxes to		406. City/town taxes to	
107. County taxes 05/15/12 to 07/01/12	152.31	407. County taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
113.		413.	
114.		414.	
115.		415.	
116.		416.	
<b>120. Gross Amount Due From Borrower:</b>	<b>71,099.92</b>	<b>420. Gross Amount Due To Seller:</b>	
<b>200. Amounts Paid By Or In Behalf Of Borrower:</b>		<b>500. Reductions In Amount Due To Seller:</b>	
201. Deposit or earnest money	1,000.00	501. Excess deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff 1st Mtg. Ln.	
205.		505. Payoff 2nd Mtg. Ln.	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
<b>Adjustments For Items Unpaid By Seller:</b>		<b>Adjustments For Items Unpaid By Seller:</b>	
210. City/town taxes to		510. City/town taxes to	
211. County taxes to		511. County taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
<b>220. Total Paid By/For Borrower:</b>	<b>1,000.00</b>	<b>520. Total Reductions In Amount Due Seller:</b>	
<b>300. Cash At Settlement From/To Borrower:</b>		<b>600. Cash At Settlement From/To Seller:</b>	
301. Gross amount due from borrower (line 120)	71,099.92	601. Gross amount due to seller (line 420)	
302. Less amount paid by/for borrower (line 220)	1,000.00	602. Less reductions in amount due seller (line 520)	
<b>303. Cash (X) FROM ( ) TO Borrower:</b>	<b>70,099.92</b>	<b>603. Cash ( ) TO ( ) FROM Seller:</b>	<b>0.00</b>

The Public Reporting Burden for this collection of information is estimated at 35 minutes per response for collecting, reviewing, and reporting the data. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. No confidentiality is assured; this disclosure is mandatory. This is designed to provide the parties to a RESPA covered transaction with information during the settlement process.

Previous editions are obsolete

FRED0054  
APEN000040

PA000786

L.		SETTLEMENT CHARGES		Escr	951FD	Paid From Borrower's Funds At Settlement	Paid From Seller's Funds At Settlement
700. Total Real Estate Broker Fees							
<b>Division of Commission (line 700) As Follows:</b>							
701. \$	to						
702. \$	to						
703. Commission paid at settlement							
704.							
<b>800. Items Payable In Connection With Loan:</b>							
801. Our origination charge (from GFE #1)							
802. Your credit or charge (points) for the specific interest rate chosen (from GFE #2)							
803. Your adjusted origination charges (from GFE A)							
804. Appraisal fee to (from GFE #3)							
805. Credit report to (from GFE #3)							
806. Tax service to (from GFE #3)							
807. Flood certification (from GFE #3)							
808.							
809.							
810.							
811.							
812.							
813.							
814.							
815.							
816.							
817.							
818.							
819.							
<b>900. Items Required By Lender To Be Paid In Advance:</b>							
901. Daily interest charges from to @ \$ /day (0 days) (from GFE #10)							
902. Mortgage insurance premium for mo. to (from GFE #3)							
903. Homeowner's insurance for yrs. to (from GFE #11)							
904. Flood insurance premium for yrs. to							
905.							
906.							
<b>1000. Reserves Deposited With Lender:</b>							
1001. Initial deposit for your escrow account (from GFE #9)							
1002. Homeowner's insurance 0 months @ \$ 0.00 per month							
1003. Mortgage insurance 0 months @ \$ 0.00 per month							
1004. City property taxes 0 months @ \$ 0.00 per month							
1005. County property taxes 0 months @ \$ 0.00 per month							
1006. Annual assessments 0 months @ \$ 0.00 per month							
1007. Flood insurance 0 months @ \$ 0.00 per month							
1008. 0 months @ \$ 0.00 per month							
1009. Aggregate Adjustment							
1010.							
<b>1100. Title Charges</b>							
1101. Title services and lender's title insurance (from GFE #4)							
1102. Settlement or closing fee to Harmony Escrow, Inc.					340.00		
1103. Owner's title insurance (from GFE #5)							
1104. Lender's title insurance							
1105. Lender's title policy limit \$							
1106. Owner's title policy limit \$							
1107. Agent's portion of the total title insurance premium							
1108. Underwriter's portion of the total title insurance premium							
1109. Courier Fee to ServiceLink					25.00		
1110. Document Preparation Fee to Harmony Escrow, Inc.					150.00		
1111. Wire Processing/Bank Charge(s) to Harmony Escrow, Inc.					25.00		
1112. Refundable Pad to Harmony Escrow, Inc.					150.00		
1113.							
1114.							
<b>1200. Government Recording and Transfer Charges:</b>							
1201. Government recording charges (from GFE #7)					85.00		
1202. Deed \$ 85.00 Mortgage \$ 0.00 Releases \$ 0.00							
1203. Transfer taxes (from GFE #8)					272.61		
1204. City/County tax/stamps Deed \$ 272.61 Mortgage \$ 0.00							
1205. State tax/stamps Deed \$ 0.00 Mortgage \$ 0.00							
1206.							
1207.							
<b>1300. Additional Settlement Charges:</b>							
1301. Required services that you can shop for (from GFE #6)							
1302.							
1303.							
1304.							
1305.							
1306.							
1307.							
1400. Total Settlement Charge (Enter on line 103, Section J - and - line 302, Section K)					1,047.61		

Previous editions are obsolete

FRED0055  
APEN000041

PA000787

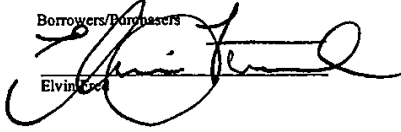
PA000788

**SELLER'S AND/OR BORROWER'S STATEMENT**

Escrow: 21951FD

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Borrowers/Buyers

  
Elvin

Sellers

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

Settlement Agent: \_\_\_\_\_ Date: \_\_\_\_\_  
Fernando T Dominguez, Harmony Escrow, Inc.

**WARNING:** It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine or imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

ATTACHMENT TO HUD 1  
Settlement Date: 5/15/2012

Escrow No.: 21951FD  
Title No.: 2924573  
Page: 1

---

**EXHIBIT A:**

Name & Address Of Seller:  
Federal Home Loan Mortgage Corporation  
By: Malcolm & Cisneros, a law Corporation, it's Attorney in Fact  
5000 Plano Parkway, Carrollton, TX 75010

Buyer EF

FRED0058  
APEN000044  
PA000790



**Harmony Escrow, Inc.**  
17100 Gillette Avenue, Irvine, CA 92614  
Tel: (949) 660-0050 • Fax: (949) 660-1051

**BUYER/BORROWER STATEMENT**  
Estimated

Escrow Number: 21951FD  
Escrow Officer: Fernando T Dominguez

Title Order Number: 2924573  
Date: 04/28/2012 - 9:39:24AM  
Closing Date: 05/15/2012

Buyer/Borrower: Elvin Fred

Seller: Federal Home Loan Mortgage Corporation  
By: Malcolm & Cisneros, a law Corporation, it's Attorney in Fact

Property: 3587 Desatoya Drive, Carson City, NV 89701


DESCRIPTION	DEBIT	CREDIT
<b>TOTAL CONSIDERATION</b>	69,900.00	
Earnest Money		1,000.00
<b>PRORATIONS/ADJUSTMENTS:</b>		
Property Tax @ 298.00 per 3 month(s) 5/15/2012 to 7/01/2012	152.31	
<b>TITLE CHARGES</b>		
Deed Recording Fee: ServiceLink	85.00	
County Transfer Tax: ServiceLink	272.61	
Courier Fee: ServiceLink	25.00	
<b>ESCROW CHARGES TO: Harmony Escrow, Inc.</b>		
Escrow Fee	340.00	
Document Preparation Fee	150.00	
Wire Processing/Bank Charge(s)	25.00	
Refundable Pad	150.00	
<b>BALANCE DUE TO ESCROW</b>		70,099.92
<b>TOTALS</b>	71,099.92	71,099.92

  
Elvin Fred

THIS IS AN ESTIMATED CLOSING STATEMENT FIGURES ARE SUBJECT TO CHANGE

FRED0059  
APEN000045

PA000791

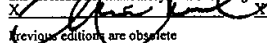
ESTIMATE		OMB No. 2502-0265	
A. SETTLEMENT STATEMENT (HUD-1)		B. TYPE OF LOAN	
		1. <input type="checkbox"/> FHA 2. <input type="checkbox"/> RIIS 3. <input type="checkbox"/> CONV. UNINS.	
		4. <input type="checkbox"/> VA 5. <input type="checkbox"/> CONV. INS.	
		6. FILE NUMBER: 21931FD	
		7. LOAN NUMBER	
		8. MORTGAGE INS. CASE NO.:	

C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. NAME & ADDRESS OF BORROWER:	Elvin Fred
E. NAME & ADDRESS OF SELLER:	Exhibit "A" Attached Hereto
F. NAME & ADDRESS OF LENDER:	
G. PROPERTY LOCATION:	3587 Desatoya Drive, Carson City, NV 89701
H. SETTLEMENT AGENT:	Harmony Escrow, Inc.
PLACE OF SETTLEMENT:	17100 Gillette Avenue, Irvine, CA 92614 (949) 660-0050
I. SETTLEMENT DATE:	5/15/2012

J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction	
100. Gross Amount Due From Borrower:		400. Gross Amount Due To Seller:	
101. Contract sales price	69,900.00	401. Contract sales price	
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103. Settlement charges to borrower: (line 1400)	1,047.61	403.	
104.		404.	
105.		405.	
Adjustments For Items Paid By Seller In Advance:		Adjustments For Items Paid By Seller In Advance:	
106. City/town taxes to		406. City/town taxes to	
107. County taxes 05/15/12 to 07/01/12	152.31	407. County taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
113.		413.	
114.		414.	
115.		415.	
116.		416.	
120. Gross Amount Due From Borrower:	71,099.92	420. Gross Amount Due To Seller:	
200. Amounts Paid By Or In Behalf Of Borrower:		500. Reductions In Amount Due To Seller:	
201. Deposit or earnest money	1,000.00	501. Excess deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff 1st Mtg. Ln.	
205.		505. Payoff 2nd Mtg. Ln.	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
Adjustments For Items Unpaid By Seller:		Adjustments For Items Unpaid By Seller:	
210. City/town taxes to		510. City/town taxes to	
211. County taxes to		511. County taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. Total Paid By/For Borrower:	1,000.00	520. Total Reductions In Amount Due Seller:	
300. Cash At Settlement From/To Borrower:		600. Cash At Settlement From/To Seller:	
301. Gross amount due from borrower (line 120)	71,099.92	601. Gross amount due to seller (line 420)	
302. Less amount paid by/for borrower (line 220)	1,000.00	602. Less reductions in amount due seller (line 520)	
303. Cash ( <input checked="" type="checkbox"/> FROM) ( <input type="checkbox"/> TO) Borrower:	70,099.92	603. Cash ( <input type="checkbox"/> TO) ( <input type="checkbox"/> FROM) Seller:	0.00

The Public Reporting Burden for this collection of information is estimated at 35 minutes per response for collecting, reviewing, and reporting the data. This agency may not collect the information, and you are not required to complete this form, unless it displays a currently valid OMB control number. No confidentiality is assured; this disclosure is mandatory. This is designed to provide the parties to a RESPA covered transaction with information during the settlement process.

X 

Previous editions are obsolete

FRED0060  
APEN000046

PA000792

L.		SETTLEMENT CHARGES		E.		21951FD	
700. Total Real Estate Broker Fees						Paid From Borrower's Funds At Settlement	Paid From Seller's Funds At Settlement
Division of Commission (line 700) As Follows:							
701. \$ to							
702. \$ to							
703. Commission paid at settlement							
704.							
800. Items Payable In Connection With Loan:							
801. Origination charge (from GFE #1)							
802. Your credit or charge (points) for the specific interest rate chosen (from GFE #2)							
803. Your adjusted origination charges (from GFE #3)							
804. Appraisal fee to (from GFE #3)							
805. Credit report to (from GFE #3)							
806. Tax service to (from GFE #3)							
807. Flood certification (from GFE #3)							
808.							
809.							
810.							
811.							
812.							
813.							
814.							
815.							
816.							
817.							
818.							
819.							
900. Items Required By Lender To Be Paid In Advance:							
901. Daily interest charges from to @ \$ /day (0 days) (from GFE #10)							
902. Mortgage insurance premium for mo. to (from GFE #3)							
903. Homeowner's insurance for yrs. to (from GFE #11)							
904. Flood insurance premium for yrs. to							
905.							
906.							
1000. Reserves Deposited With Lender:							
1001. Initial deposit for your escrow account (from GFE #9)							
1002. Homeowner's insurance 0 months @ \$ 0.00 per month							
1003. Mortgage insurance 0 months @ \$ 0.00 per month							
1004. City property taxes 0 months @ \$ 0.00 per month							
1005. County property taxes 0 months @ \$ 0.00 per month							
1006. Annual assessments 0 months @ \$ 0.00 per month							
1007. Flood insurance 0 months @ \$ 0.00 per month							
1008. 0 months @ \$ 0.00 per month							
1009. Aggregate Adjustment							
1010.							
1100. Title Charges							
1101. Title services and lender's title insurance (from GFE #4)							
1102. Settlement or closing fee to Harmony Escrow, Inc.						340.00	
1103. Owner's title insurance (from GFE #5)							
1104. Lender's title insurance							
1105. Lender's title policy limit \$							
1106. Owner's title policy limit \$							
1107. Agent's portion of the total title insurance premium							
1108. Underwriter's portion of the total title insurance premium							
1109. Courier Fee to ServiceLink						25.00	
1110. Document Preparation Fee to Harmony Escrow, Inc.						150.00	
1111. Wire Processing/Bank Charge(s) to Harmony Escrow, Inc.						25.00	
1112. Refundable Pad to Harmony Escrow, Inc.						150.00	
1113.							
1114.							
1200. Government Recording and Transfer Charges:							
1201. Government recording charges (from GFE #7)						85.00	
1202. Deed \$ 85.00 Mortgage \$ 0.00 Releases \$ 0.00							
1203. Transfer taxes (from GFE #8)						272.61	
1204. City/County tax/stamps Deed \$ 272.61 Mortgage \$ 0.00							
1205. State tax/stamps Deed \$ 0.00 Mortgage \$ 0.00							
1206.							
1207.							
1300. Additional Settlement Charges:							
1301. Required services that you can shop for (from GFE #6)							
1302.							
1303.							
1304.							
1305.							
1306.							
1307.							
1308. Total Settlement Charge (Enter on line 103, Section J - and - line 502, Section K)						1,047.61	

FRED0061  
APEN000047

PA000793



SELLER'S AND/OR BORROWER'S STATEMENT

Escrow: 21951FD

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Borrowers/Purchasers

Sellers

Elvin F. [Signature]

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

Settlement Agent:

Date:

Fernando T Dominguez, Harmony Escrow, Inc.

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine or imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

ATTACHMENT TO HUD 1  
Settlement Date: 5/15/2012

Escrow No.: 21951FD  
Title No.: 2924573  
Page: 1

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**EXHIBIT A:**

Name & Address Of Seller:  
Federal Home Loan Mortgage Corporation  
By: Malcolm & Cisneros, a law Corporation, it's Attorney in Fact  
5000 Plano Parkway, Carrollton, TX 75010

Buyer  
EF

FRED0064  
APEN000050  
PA000796

**Harmony Escrow, Inc.**  
 17100 Gillette Avenue, Irvine, CA 92614  
 Tel: (949) 660-0050 • Fax: (949) 660-1051

**BUYER/BORROWER STATEMENT**  
 Estimated

Escrow Number: 21951FD  
 Escrow Officer: Fernando T Dominguez

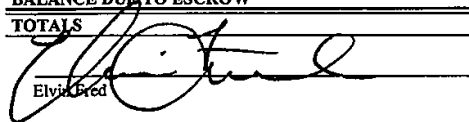
Title Order Number: 2924573  
 Date: 04/28/2012 - 9:44:00AM  
 Closing Date: 05/15/2012

Buyer/Borrower: Elvin Fred

Seller: Federal Home Loan Mortgage Corporation  
 By: Malcolm & Cisneros, a law Corporation, it's Attorney in Fact

Property: 3587 Desatoya Drive, Carson City, NV 89701


DESCRIPTION	DEBIT	CREDIT
<b>TOTAL CONSIDERATION</b>	69,900.00	
Earnest Money		1,000.00
<b>PRORATIONS/ADJUSTMENTS:</b>		
Property Tax @ 298.00 per 3 month(s) 5/15/2012 to 7/01/2012	152.31	
<b>TITLE CHARGES</b>		
Deed Recording Fee: ServiceLink	85.00	
County Transfer Tax: ServiceLink	272.61	
Courier Fee: ServiceLink	25.00	
<b>ESCROW CHARGES TO: Harmony Escrow, Inc.</b>		
Escrow Fee	340.00	
Document Preparation Fee	150.00	
Wire Processing/Bank Charge(s)	25.00	
Refundable Pad	150.00	
<b>BALANCE DUE TO ESCROW</b>		70,099.92
<b>TOTALS</b>	71,099.92	71,099.92

  
 Elvin Fred

THIS IS AN ESTIMATED CLOSING STATEMENT FIGURES ARE SUBJECT TO CHANGE

FRED0065  
 APEN000051

PA000797

ESTIMATED A. SETTLEMENT STATEMENT (HUD-1)		B. TYPE OF LOAN		
		1. <input type="checkbox"/> FHA    2. <input type="checkbox"/> RHS    3. <input type="checkbox"/> CONV. UNINS. 4. <input type="checkbox"/> VA    5. <input type="checkbox"/> CONV. INS.		
		6. FILE NUMBER: 21951ED		
		7. LOAN NUMBER		
		8. MORTGAGE INS. CASE NO.:		
C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.				
D. NAME & ADDRESS OF BORROWER: Elvin Fred				
E. NAME & ADDRESS OF SELLER: Exhibit "A" Attached Hereto				
F. NAME & ADDRESS OF LENDER:				
G. PROPERTY LOCATION: 3587 Desatoya Drive, Carson City, NV 89701				
H. SETTLEMENT AGENT: Harmony Escrow, Inc. PLACE OF SETTLEMENT: 17100 Gillette Avenue, Irvine, CA 92614 (949) 660-0050				
I. SETTLEMENT DATE: 5/15/2012				
J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction		
100. Gross Amount Due From Borrower:		400. Gross Amount Due To Seller:		
101. Contract sales price	69,900.00	401. Contract sales price		
102. Personal property		402. Personal property		
103. Settlement charges to borrower: (line 1400)	1,047.61	403.		
104.		404.		
105.		405.		
Adjustments For Items Paid By Seller In Advance:		Adjustments For Items Paid By Seller In Advance:		
106. City/town taxes to		406. City/town taxes to		
107. County taxes 05/15/12 to 07/01/12	152.31	407. County taxes to		
108. Assessments to		408. Assessments to		
109.		409.		
110.		410.		
111.		411.		
112.		412.		
113.		413.		
114.		414.		
115.		415.		
116.		416.		
120. Gross Amount Due From Borrower:	71,099.92	420. Gross Amount Due To Seller:		
200. Amounts Paid By Or In Behalf Of Borrower:		500. Reductions In Amount Due To Seller:		
201. Deposit or earnest money	1,000.00	501. Excess deposit (see instructions)		
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)		
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to		
204.		504. Payoff 1st Mfg. Ln.		
205.		505. Payoff 2nd Mfg. Ln.		
206.		506.		
207.		507.		
208.		508.		
209.		509.		
Adjustments For Items Unpaid By Seller:		Adjustments For Items Unpaid By Seller:		
210. City/town taxes to		510. City/town taxes to		
211. County taxes to		511. County taxes to		
212. Assessments to		512. Assessments to		
213.		513.		
214.		514.		
215.		515.		
216.		516.		
217.		517.		
218.		518.		
219.		519.		
220. Total Paid By/For Borrower:	1,000.00	520. Total Reductions In Amount Due Seller:		
300. Cash At Settlement From/To Borrower:		600. Cash At Settlement From/To Seller:		
301. Gross amount due from borrower (line 120)	71,099.92	601. Gross amount due to seller (line 420)		
302. Less amount paid by/for borrower (line 220)	1,000.00	602. Less reductions in amount due seller (line 520)		
303. Cash ( <input checked="" type="checkbox"/> FROM) ( <input type="checkbox"/> TO) Borrower:	70,099.92	603. Cash ( <input type="checkbox"/> TO) ( <input type="checkbox"/> FROM) Seller:		0.00

The Public Reporting Burden for this collection of information is estimated at 35 minutes per response for collecting, reviewing, and reporting the data. This agency may not collect this information and you are not required to complete this form, unless it displays a currently valid OMB control number. No confidentiality is assured; this disclosure is mandatory. It is designed to provide the parties to a RESPA covered transaction with information during the settlement process.

Previous editions are obsolete

FRED0066  
APEN000052

PA000798



L.		SETTLEMENT CHARGES		L.		21951FD	
700. Total Real Estate Broker Fees						Paid From Borrower's Funds At Settlement	Paid From Seller's Funds At Settlement
Division of Commission (line 700) As Follows:							
701. \$	to						
702. \$	to						
703. Commission paid at settlement							
704.							
800. Items Payable In Connection With Loan:							
801. Our origination charge				(from GFE #1)			
802. Your credit or charge (points) for the specific interest rate chosen				(from GFE #2)			
803. Your adjusted origination charges				(from GFE #3)			
804. Appraisal fee to				(from GFE #3)			
805. Credit report to				(from GFE #3)			
806. Tax service to				(from GFE #3)			
807. Flood certification				(from GFE #3)			
808.							
809.							
810.							
811.							
812.							
813.							
814.							
815.							
816.							
817.							
818.							
819.							
900. Items Required By Lender To Be Paid In Advance:							
901. Daily interest charges from	to	@ \$	/day (0 days)	(from GFE #10)			
902. Mortgage insurance premium	for	mo. to		(from GFE #3)			
903. Homeowner's insurance	for	yrs. to		(from GFE #11)			
904. Flood insurance premium	for	yrs. to					
905.							
906.							
1000. Reserves Deposited With Lender:							
1001. Initial deposit for your escrow account				(from GFE #9)			
1002. Homeowner's insurance	0 months @ \$		0.00 per month				
1003. Mortgage insurance	0 months @ \$		0.00 per month				
1004. City property taxes	0 months @ \$		0.00 per month				
1005. County property taxes	0 months @ \$		0.00 per month				
1006. Annual assessments	0 months @ \$		0.00 per month				
1007. Flood insurance	0 months @ \$		0.00 per month				
1008.	0 months @ \$		0.00 per month				
1009. Aggregate Adjustment							
1010.							
1100. Title Charges							
1101. Title services and lender's title insurance				(from GFE #4)			
1102. Settlement or closing fee to Harmony Escrow, Inc.					340.00		
1103. Owner's title insurance				(from GFE #5)			
1104. Lender's title insurance							
1105. Lender's title policy limit \$							
1106. Owner's title policy limit \$							
1107. Agent's portion of the total title insurance premium							
1108. Underwriter's portion of the total title insurance premium							
1109. Courier Fee to ServiceLink					25.00		
1110. Document Preparation Fee to Harmony Escrow, Inc.					150.00		
1111. Wire Processing/Bank Charge(s) to Harmony Escrow, Inc.					25.00		
1112. Refundable Pad to Harmony Escrow, Inc.					150.00		
1113.							
1114.							
1200. Government Recording and Transfer Charges:							
1201. Government recording charges				(from GFE #7)	85.00		
1202. Deed \$ 85.00	Mortgage \$ 0.00	Releases \$ 0.00					
1203. Transfer taxes				(from GFE #8)	272.61		
1204. City/County tax/stamps Deed \$ 272.61		Mortgage \$ 0.00					
1205. State tax/stamps Deed \$ 0.00		Mortgage \$ 0.00					
1206.							
1207.							
1300. Additional Settlement Charges:							
1301. Required services that you can shop for				(from GFE #6)			
1302.							
1303.							
1304.							
1305.							
1306.							
1307.							
1308. Total Settlement Charges (Enter on line 103, Section J - and - line 502, Section K)					1,047.61		

Previous editions are obsolete

FRED0067  
APEN000053

PA000799

[illegible]

Loan Terms	
Your initial loan amount is	\$
Your loan term is	years
Your initial interest rate is	%
Your initial monthly amount owed for principal, interest, and any mortgage insurance is	\$ includes <input type="checkbox"/> Principal <input type="checkbox"/> Interest <input type="checkbox"/> Mortgage Insurance
Can your interest rate rise?	<input type="checkbox"/> No. <input type="checkbox"/> Yes, it can rise to a maximum of % . The first change will be on and can change again every after . Every change date, your interest rate can increase or decrease by % . Over the life of the loan, your interest rate is guaranteed to never be lower than % or higher than % .
Even if you make payments on time, can your loan balance rise?	<input type="checkbox"/> No. <input type="checkbox"/> Yes, it can rise to a maximum of \$ .
Even if you make payments on time, can your monthly amount owed for principal, interest, and mortgage insurance rise?	<input type="checkbox"/> No. <input type="checkbox"/> Yes, the first increase can be on and the monthly amount owed can rise to \$ . The maximum it can ever rise to is \$ .
Does your loan have a prepayment penalty?	<input type="checkbox"/> No. <input type="checkbox"/> Yes, your maximum prepayment penalty is \$ .
Does your loan have a balloon payment?	<input type="checkbox"/> No. <input type="checkbox"/> Yes, you have a balloon payment of \$ due in years on .
Total monthly amount owed including escrow account payments	<input type="checkbox"/> You do not have a monthly escrow payment for items, such as property taxes and homeowner's insurance. You must pay these items directly yourself. <input type="checkbox"/> You have an additional monthly escrow payment of \$ that results in a total initial monthly amount owed of \$ . This includes principal, interest, any mortgage insurance and any items checked below: <input type="checkbox"/> Property taxes <input type="checkbox"/> Homeowner's insurance <input type="checkbox"/> Flood Insurance <input type="checkbox"/> <input type="checkbox"/>

**Note:** If you have any questions about the Settlement Charges and Loan Terms listed on this form, please contact your lender.

Previous editions are obsolete

FRED0068  
APEN000054  
PA000800

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Borrowers/Purchasers

Elvin Fred

Sellers

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

Settlement Agent:

Date:

Fernando T Domínguez, Harmony Escrow, Inc.

**WARNING:** It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine or imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

ATTACHMENT TO HUD 1  
Settlement Date: 5/15/2012

Escrow No.: 21951FD  
Title No.: 2924573  
Page: 1

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**EXHIBIT A:**

Name & Address Of Seller:  
Federal Home Loan Mortgage Corporation  
By: Malcolm & Cisneros, a law Corporation, it's Attorney in Fact  
5000 Plano Parkway, Carrollton, TX 75010

*Buyer*  
EF

FRED0070  
APEN000056  
PA000802

**Harmony Escrow, Inc.**  
17100 Gillette Avenue  
Irvine, CA 92614  
P: (949) 660-0050 • F: (949) 660-1051  
[abryan@harmonyescrow.com](mailto:abryan@harmonyescrow.com)

**AMENDED ESCROW INSTRUCTIONS**

Date: April 28, 2012

Escrow No. 21951FD

Re: 3587 Desatoya Drive, Carson City, NV 89701

---

To: **Harmony Escrow, Inc. - Fernando T Dominguez**

My previous instructions in the above numbered escrow are hereby modified – supplemented in the following particulars only.

Buyer(s)/Borrower's vesting through the above referenced escrow is hereby amended as follows:

**Elvin Fred, A SINGLE MAN**

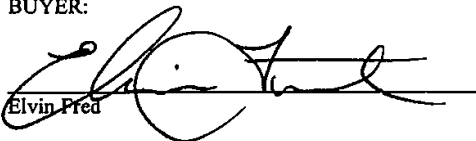
Escrow Holder is authorized and instructed to change any and all documentation as necessary to reflect said vesting change over signatures thereon, if applicable.

Buyer and seller agree to indemnify, defend and hold escrow holder, it's employees and officer of the corporation, real estate agents and /or brokers harmless from any liability or loss in connection with this instruction.

All other terms and conditions of this escrow shall remain the same. All parties signing this instruction acknowledge receipt of a copy of same.

**END OF AMENDMENT**

BUYER:

  
Elvin Fred

FRED0071  
APEN000057

PA000803

Harmony Escrow, Inc.

Date: April 24, 2  
Escrow No.: 2195

**Harmony Escrow, Inc.**  
17100 Gillette Avenue  
Irvine, CA 92614  
P: (949) 660-0050 • F: (949) 660-1051  
[fdominguez@harmonyescrow.com](mailto:fdominguez@harmonyescrow.com)

### PRELIMINARY TITLE REPORT ACKNOWLEDGEMENT

THE UNDERSIGNED BUYER(S) ACKNOWLEDGE THAT HE/SHE/THEY HAVE RECEIVED AND READ A COPY OF THE PRELIMINARY TITLE REPORT ISSUED BY ServiceLink, DATED AS OF 3-21-12, UNDER ORDER # 2924573, DESCRIBING THEREIN THE SUBJECT PROPERTY OF THIS TRANSACTION.

ESCROW NO.: 21951FD

DATE SIGNED: 4-27-12

  
Elbin Fred

BUYERS INITIALS EF

SELLERS INITIALS \_\_\_\_\_

FRED0072  
APEN000058  
PA000804

**Harmony Escrow, Inc.**  
17100 Gillette Avenue  
Irvine, CA 92614  
P: (949) 660-0050 • F: (949) 660-1051  
[fdominguez@harmonyescrow.com](mailto:fdominguez@harmonyescrow.com)

April 25, 2012

**Elbin Fred**

RE: Escrow No.: **21951FD**  
Property Address: **3587 Desatoya Drive**  
**Carson City, NV 89701**

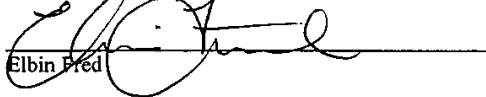
Dear Elbin Fred:

Prior to the close of your escrow, it will be necessary for us to contact your insurance agent in order that lender's requirements regarding hazard insurance (fire and flood), if applicable may be met. Please complete the information requested below and return it to this office as soon as possible.

Insurance Agent: \_\_\_\_\_  
Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Policy Number, if any: \_\_\_\_\_  
Approximate Premium: \$ \_\_\_\_\_

\_\_\_\_\_ Check here if dwelling is covered by a master insurance policy through a homeowner association.

X **ALL CASH OFFER** (If applicable): This is an "ALL CASH" Trans and no financing will be secured on subject property. Additionally, Escrow Holder is instructed to close this escrow without regard or concern about fire insurance coverage for the subject property (unless the property is a condominium/townhouse, in which case, Escrow Holder's only concern is to transfer the Seller's interest in the master policy to Buyer at the close of escrow). Buyer will obtain their own insurance coverage outside of escrow and release Escrow Holder from any responsibility in connection herewith.

  
Elbin Fred

FRED0073  
APEN000059  
PA000805

Harmony Escrow, Inc.  
17100 Gillette Avenue  
Irvine, CA 92614  
P: (949) 660-0050 • F: (949) 660-1051  
fdominguez@harmonyescrow.com

## SUPPLEMENTAL INSTRUCTIONS & GENERAL PROVISIONS

TO: Harmony Escrow, Inc.

Date: April 24, 2012  
Escrow Officer: Fernando T Dominguez  
Escrow Number: 21951FD

HARMONY ESCROW, INC. IS LICENSED AS AN ESCROW AGENT BY THE DEPARTMENT OF CORPORATIONS  
OF THE STATE OF CALIFORNIA, LICENSE NUMBER 963-2368.

TERMS OF TRANSACTION		
Buyer has deposited with escrow	\$	1,000.00
Broker has on deposit for account of buyer	\$	
Buyer will deposit prior to close of escrow	\$	68,900.00
Deed of Trust of Record	\$	
Deed of Trust to Record	\$	0.00
TOTAL CONSIDERATION:	\$	69,900.00

CLOSE OF ESCROW TO BE ON OR BEFORE: May 15, 2012

Legal description attached hereto and made a part hereof as Exhibit "A"

PROPERTY ADDRESS: 3587 Desatoya Drive, Carson City, NV, 89701

TITLE ON GRANT DEED SHALL BE CONVEYED TO: Elbin Fred (Vesting to be Determined)

Escrow Holder is instructed to correct the Grant Deed being delivered in the above numbered escrow to reflect the vesting designated by Buyer, over the signed, notarized signatures of Seller(s) herein.

INSTRUCTIONS/COUNTERS/SUPPLEMENTS/ADDENDUMS: Escrow Holders responsibility is limited to the items listed in Paragraph 18 of the Nevada Residential Purchase Agreement and Joint Escrow Instructions dated 4/10/12, COUNTER OFFER NO. 1 dated 4/10/12, HOMESTEPS ADDENDUM TO CONTRACT OF SALE.

HOMESTEPS ADDENDUM #1: In the event any provision of HomeSteps Addendum #1 and HomeSteps Amendment(s) conflicts in whole or in part with the terms of the Nevada Residential Purchase Agreement and Joint Escrow Instructions, attached Counter Offers and attached Addendums, the provisions of HomeSteps Addendum #1 and HomeSteps Amendment(s) shall control and supersede.

To the extent these instructions are inconsistent or conflict with the Nevada Residential Purchase Agreement and Joint Escrow Instructions, these instructions will control as to the duties and obligations of Escrow Holder only.

THIS IS AN ALL CASH TRANSACTION.

SATISFACTION OF CONTINGENCIES: Buyer will sign C.A.R. Form CR (Contingency Removal) outside of escrow that all contingencies have been removed and requires no action of the Escrow Holder.

PER DIEM: In the event Seller agrees to Purchaser's request for a written extension of this Agreement, Purchaser agrees to pay to Seller a per diem of \$100.00 through and including the new closing date specified in the written extension.

TERMITE/WOOD DESTROYING INSECTS: Seller SHALL NOT repair or treat any such damage caused by termites or wood destroying insects.

HOME PROTECTION PLAN: Buyer to be provided a two (2) year Home Protection Plan from HomeProtect Home Warranty for the benefit of the Buyer. Escrow Holder is NOT responsible for ordering the plan, nor for the contents thereof during or after the close of escrow. Your sole responsibility is to debit the respective party at close, per billing submitted herein, and hand the plan to Buyer at close. The invoice for same shall not exceed \$1,050.00 and shall be paid from fund Seller.

NON-RECURRING CLOSING COSTS CREDIT TO BUYER (ACTUAL COST ONLY): At the close of escrow, Escrow Holder is authorized and instructed to debit Seller's account and credit Buyer's account with the sum equal to the total of Buyer's non-recurring closing costs up to a maximum of \$0.00. Said closing costs shall include, but not limited to, the premium for Lender's title insurance policy, Buyer's recording fees, Buyer's escrow fees, loan points, credit report, appraisal, lender's processing fee, lender's document fee and other lender fees, special messenger fees, notary or sign up fees, pre-paid interest, and tax and insurance impounds, if any and home warranty. Buyer understands that closing costs credit will not cover any debit to the Buyer for proration of taxes and HOA, if applicable. All parties are aware that in the event the actual closing costs are less than \$0.00, Buyer will receive a credit for the lesser amount. Items paid outside of escrow which do not appear on the closing statement shall not be included in the Buyer's closing costs credit unless Escrow Holder is otherwise mutually instructed in writing.

BUYERS INITIALS EF

SELLERS INITIALS



Harmony Escrow, Inc.  
17100 Gillette Avenue  
Irvine, CA 92614  
P: (949) 660-0050 • F: (949) 660-1051  
fdominguez@harmonyescrow.com

## SUPPLEMENTAL INSTRUCTIONS & GENERAL PROVISIONS

TO: Harmony Escrow, Inc.

Date: April 24, 2012  
Escrow Officer: Fernando T Dominguez  
Escrow Number: 21951FD

HARMONY ESCROW, INC. IS LICENSED AS AN ESCROW AGENT BY THE DEPARTMENT OF CORPORATIONS  
OF THE STATE OF CALIFORNIA, LICENSE NUMBER 963-2368.

TERMS OF TRANSACTION		
Buyer has deposited with escrow	\$	1,000.00
Broker has on deposit for account of buyer	\$	
Buyer will deposit prior to close of escrow	\$	68,900.00
Deed of Trust of Record	\$	
Deed of Trust to Record	\$	0.00
TOTAL CONSIDERATION:	\$	69,900.00
CLOSE OF ESCROW TO BE ON OR BEFORE:		
May 15, 2012		

Legal description attached hereto and made a part hereof as Exhibit "A"

PROPERTY ADDRESS: 3587 Desatoya Drive, Carson City, NV, 89701

TITLE ON GRANT DEED SHALL BE CONVEYED TO: Elbin Fred (Vesting to be Determined)

Escrow Holder is instructed to correct the Grant Deed being delivered in the above numbered escrow to reflect the vesting designated by Buyer, over the signed, notarized signatures of Seller(s) herein.

INSTRUCTIONS/COUNTERS/SUPPLEMENTS/ADDENDUMS: Escrow Holders responsibility is limited to the items listed in Paragraph 18 of the Nevada Residential Purchase Agreement and Joint Escrow Instructions dated 4/10/12, COUNTER OFFER NO. 1 dated 4/10/12, HOMESTEPS ADDENDUM TO CONTRACT OF SALE.

HOMESTEPS ADDENDUM #1: In the event any provision of HomeSteps Addendum #1 and HomeSteps Amendment(s) conflicts in whole or in part with the terms of the Nevada Residential Purchase Agreement and Joint Escrow Instructions, attached Counter Offers and attached Addendums, the provisions of HomeSteps Addendum #1 and HomeSteps Amendment(s) shall control and supersede.

To the extent these instructions are inconsistent or conflict with the Nevada Residential Purchase Agreement and Joint Escrow Instructions, these instructions will control as to the duties and obligations of Escrow Holder only.

THIS IS AN ALL CASH TRANSACTION.

SATISFACTION OF CONTINGENCIES: Buyer will sign C.A.R. Form CR (Contingency Removal) outside of escrow that all contingencies have been removed and requires no action of the Escrow Holder.

PER DIEM: In the event Seller agrees to Purchaser's request for a written extension of this Agreement, Purchaser agrees to pay to Seller a per diem of \$100.00 through and including the new closing date specified in the written extension.

TERMITE/WOOD DESTROYING INSECTS: Seller SHALL NOT repair or treat any such damage caused by termites or wood destroying insects.

HOME PROTECTION PLAN: Buyer to be provided a two (2) year Home Protection Plan from HomeProtect Home Warranty for the benefit of the Buyer. Escrow Holder is NOT responsible for ordering the plan, nor for the contents thereof during or after the close of escrow. Your sole responsibility is to debit the respective party at close, per billing submitted herein, and hand the plan to Buyer at close. The invoice for same shall not exceed \$1,050.00 and shall be paid from fund Seller.

NON-RECURRING CLOSING COSTS CREDIT TO BUYER (ACTUAL COST ONLY): At the close of escrow, Escrow Holder is authorized and instructed to debit Seller's account and credit Buyer's account with the sum equal to the total of Buyer's non-recurring closing costs up to a maximum of \$0.00. Said closing costs shall include, but not limited to, the premium for Lender's title insurance policy, Buyer's recording fees, Buyer's escrow fees, loan points, credit report, appraisal, lender's processing fee, lender's document fee and other lender fees, special messenger fees, notary or sign up fees, pre-paid interest, and tax and insurance impounds, if any and home warranty. Buyer understands that closing costs credit will not cover any debit to the Buyer for proration of taxes and HOA, if applicable. All parties are aware that in the event the actual closing costs are less than \$0.00, Buyer will receive a credit for the lesser amount. Items paid outside of escrow which do not appear on the closing statement shall not be included in the Buyer's closing costs credit unless Escrow Holder is otherwise mutually instructed in writing.

BUYERS INITIALS EF \_\_\_\_\_

SELLERS INITIALS \_\_\_\_\_

**PRORATIONS:** Prorate the following as of close of escrow, based on amount(s) furnished by Seller, Title Company or Third Party:

- Real Property Taxes
- Common Interest Community
- Sewer Use Fees

**APPROVAL OF ESTIMATED CLOSING STATEMENT:** All parties to this transaction are made aware that Escrow Holder is required to submit closing figures for Seller's approval at the time Buyer's loan documents are received in escrow, and must receive written approval before escrow can close. All Parties are advised that adequate time is required for estimated closing figures to be approved.

**BUYER'S ESTIMATED SETTLEMENT STATEMENT TO SELLER:** The undersigned Buyer(s) herein authorize Escrow Holder to provide Seller with a copy of Buyer's signed estimated settlement statement.

**ESCROW HOLDER AND TITLE COMPANY:** Seller reserved the right to choose the services for the Title Company and the Escrow Holder.

**TRANSFER TAXES/TAX STAMPS:** Seller is exempt from payment of state taxes and tax stamps on deeds, said taxes shall be paid by Buyer at close of escrow and will not be considered part of closing costs.

**DEPOSIT OF CLOSING FUNDS:** Pursuant to Federal Regulations and the California Insurance Code, all funds deposited for close of escrow by parties hereto **MUST** be in one of the following forms: 1) Cashier's Check, Teller Check or Certified Check for amounts under \$100,000.00 (FUNDS MUST BE DEPOSITED TWO (2) BUSINESS DAYS PRIOR TO CLOSE OF ESCROW); OR 2) Direct electronic "wire" transfer into escrow trust account for amounts of \$100,000.00 or more (please contact Escrow Holder for wiring instructions). Bank charges for wire transfers shall be paid by the party for whose benefit the wire transfer is made.

**ADDITIONAL TERMS, CONDITIONS AND INSTRUCTIONS:**

- A) **TAX WITHHOLDING:** 1) Under the Foreign Investment in Real Property Tax Act (FIRPTA), IRC Section 1445, every Buyer must, unless an exemption applies, deduct and withhold 10% of the gross sales price from Seller's proceeds and send it to the Internal Revenue Service, if the Seller is a "foreign person" under that statute. 2) In addition, under California Revenue and Taxation Code Section 18662, every Buyer must, unless an exemption applies, deduct and withhold 3 1/3% of the gross sales price from Seller's proceeds and send it to the Franchise Tax Board (FTB): If the subject property is not Seller's principal residence, or if the Seller is a corporation with no permanent place of business in California. 3) Penalties may be imposed on a responsible party for non-compliance with the requirements of these statutes and related regulations. Seller and Buyer agree to execute and deliver any instrument, affidavit, statement, or instruction reasonably necessary to carry out these requirements, and to withholding of tax under those statutes if required. (SELLER'S AFFIDAVIT OF NON-FOREIGN STATUS AND/OR
- B) **FACSIMILE SIGNATURES:** In the event any party utilizes "Facsimile" transmitted signed instructions to Escrow Holder, you are to rely on same for all escrow instruction purposes and the closing of escrow as if they bore original signatures. Said party shall provide to Escrow Holder, **within 72 hours after transmission, original signatures.** Notwithstanding the foregoing, any and all escrow instructions pertaining to the release or disbursement of funds from escrow prior to close of escrow requires original, **NOTARIZED** signatures. Parties herein are advised that documents with non-original signatures may not be accepted for recording by the County Recorder, thus making impossible the closing of this escrow without the submission of original documents.
- C) **SPECIAL RECORDING NOTICE:** In the event the documents in this escrow are recorded as a "SPECIAL RECORDING", i.e. subsequent to 8:00 a.m., Buyer and Seller are aware and approve that funds may not or will not be available for disbursement for the payment of liens, proceeds or commissions until the following business day, and that no interest will be earned on such funds. Escrow Holder, Broker(s) and their Agent(s) are hereby indemnified, held harmless and released from any and all liability and/or responsibility for recording the documents as a "SPECIAL RECORDING" and for any additional interest/penalties to be paid to lender(s) and/or other hardships that may be suffered by any party as a result of said "SPECIAL RECORDING."
- D) **FUNDS HELD AT CLOSE OF ESCROW:** Notwithstanding any other provisions in these escrow instructions and in addition to other fees and costs to which you may be entitled, the parties, jointly and severally, agree that if this escrow is not consummated within ninety (90) days of the date set for closing, you are instructed to, and without further instructions, withhold your escrow hold open fee of \$50.00 per month from the funds on deposit with you regardless of who deposited such funds. The parties, jointly and severally, further agree that if you are, for any reason, required to hold funds after close of escrow, you are instructed to, and without further instructions, withhold an escrow fee of \$50.00 per month from the funds on deposit with you regardless of who deposited such funds. The parties irrevocably instruct you to automatically cancel this file without further instructions when all funds on deposit have been disbursed.

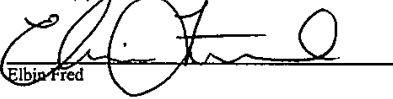
\* \* \* \* \*

BY SETTING FORTH HIS/HER FULL AND COMPLETE SIGNATURE HEREINBELOW AND BY INITIALLING ALL OTHER PAGES, INCLUDING THE LAST THREE PAGES ENTITLED "GENERAL PROVISIONS", AS INDICATED THEREON, ("EXECUTION") EACH PARTY TO THIS ESCROW ACKNOWLEDGES RECEIPT OF SAME AND AGREES THAT SUCH EXECUTION SHALL BE DEEMED HIS/HER FULL ACCEPTANCE AND APPROVAL OF, CONCURRENCE IN, AND AGREEMENT TO BE BOUND BY, ALL OF THE TERMS, PROVISIONS, CONDITIONS, CONTINGENCIES, INSTRUCTIONS AND AGREEMENTS CONTAINED HEREIN, IN THEIR ENTIRETY.

BUYERS INITIALS EF \_\_\_\_\_

SELLERS INITIALS \_\_\_\_\_

BUYER(S):


  
Elbin Fred

SELLER(S):

Federal Home Loan Mortgage Corporation  
By: Malcolm & Cisneros, a law Corporation, it's  
Attorney in Fact

By: Rande Johnsen, Its Assistant Secretary

## GENERAL PROVISIONS

1. The parties to this escrow are made aware that Escrow Holder has no obligation to verify signatures of any of the parties involved.
2. You shall not be responsible for the following: (1) the sufficiency or correctness as to form, manner of execution or validity of any documents deposited in this escrow: (2) the identity, authority, or right of any person executing the same, either as to documents of record or those handled in the escrow: or (3) the failure of any party to comply with any of the provisions of any agreement, contract or other instrument filed or deposited in this escrow or referred to in those escrow instructions. Your duties shall be limited to the safekeeping of money and documents received by you as Escrow Holder and for the disposition in compliance with the written instructions accepted by you in this escrow. You shall not be required to take any action regarding the collection, maturity, or apparent outflow of any obligations deposited with you unless otherwise instruction in writing.
3. Where the assignment of any insurance policy from Seller to Buyer is concerned, Seller guarantees to you any insurance policy handed you in this escrow is policy in force, the policy has not been hypothecated and that all necessary premiums have been paid. You are authorized to execute on behalf of the parties assignments of interest in any insurance policy (other than title insurance policies) called for in this escrow, you are authorized to transmit for assignment any insurance policy to the insurance agent requesting that the insurer consent to such assignment, to request that a loss payee clause or such other endorsements as may be required be issued and to forward such policy to the lenders and entitled parties. You shall not be responsible for verifying the acceptance of the request for assignment and policy of insurance by the insurance company. The parties mutually agree that you will make no attempt to verify the receipt of the request for assignment by the issuing insurance company. All parties are placed on notice that if the insurance company should fail to receive the assignment, the issuing company may deny coverage for any loss suffered by Buyer. IT IS THE OBLIGATION OF THE INSURED OR THE INSURED'S REPRESENTATIVE TO VERIFY THE ISSUING COMPANY'S ACCEPTANCE OF THE ASSIGNMENT OF THE POLICY.
4. You are not to be held responsible in any way whatsoever for any personal property tax which may be assessed against any former or present owner of the subject property described in these escrow instructions, nor for the corporation or license tax of any corporation as a former or present owner.
5. If it is necessary, proper or convenient for the consummation of this escrow, you are authorized to deposit or have deposited funds or documents, or both, handed you under these escrow instructions with any duly authorized sub-escrow agent, including, but not limited to, any bank, trust company, title insurance company, title company, savings and loan association, or licensed escrow agent, subject to your order at or before close of escrow in connection with closing this escrow. Any such deposit shall be deemed a deposit under the meaning of these escrow instructions.
6. The parties to this escrow have satisfied themselves outside of escrow that the transaction covered by this escrow is not in violation of the Subdivision Map Act or any law regulation land division, zoning ordinances or building restrictions which may affect the land or improvements that are the subject of this escrow. You, as escrow holder, are relieved of all responsibility and liability in connection with such laws, ordinances, restrictions or regulations and are not to be concerned with any of their enforcement.
7. You shall make no physical inspection of the real property or personal property described in any instruments deposited in, or which is the subject of this escrow. You have made no representations or warranties concerning any such real property or personal property and are not to be concerned with nor liable for the condition of real property or personal property.
8. The parties authorize the recordation of any instrument delivered through this escrow if necessary or proper for the issuance of the required policy of title insurance or for the closing of this escrow. Funds, instructions or instruments received in this escrow may be delivered to, or deposited with any title insurance company or title company to comply with the terms and conditions of this escrow.
9. You are to use your usual document forms or the usual forms of any title insurance company or title company and in our instructions insert dates and terms on the instruments if incomplete when executed.
10. If the date by which Buyer's or Seller's performances are due shall be other than your regular business day, such performances shall be due on your next succeeding business day.
11. You shall conduct no lien or title search of personal property regarding the sale or transfer of any personal property through this escrow. Should the parties desire that you conduct a lien or title search of personal property, the parties requesting the same shall deliver separate and specific written escrow instructions to you along with an agreement to pay your additional escrow fees.
12. You shall not be responsible in any way whatsoever nor are you to be concerned with any question of usury in any loan or encumbrance, whether new or of record, which may arise during the processing of this escrow.

BUYERS INITIALS EF \_\_\_\_\_

SELLERS INITIALS \_\_\_\_\_

13. The parties agree to deliver to you all documents, instruments, escrow instructions and funds required to process and close this escrow in accordance with its terms.

14. You are instructed to provide title to the subject real property in the condition identified in the escrow instructions by the parties. You are not responsible for the contents or accuracy of any beneficiary demands and/or beneficiary statements delivered to you by the existing lienholders. You are not required to submit any such beneficiary statements and/or demand to the parties for approval before the close of escrow unless expressly instructed to do so in writing. Should the parties desire to pre-approve any such beneficiary statement and/or demand, the parties requesting the same shall deliver separate and specific written escrow instructions to you.

15. You are not to be responsible in any way whatsoever nor to be concerned with the terms of any new loan or the content of any loan documents obtained by any party in connection with this escrow except to order such loan documents into the escrow file, transmit the loan documents to Buyer for execution and transmit the executed loan documents to lender. The parties understand and agree that you are not involved nor concerned with the approval and/or processing of any loan or the contents and effect of loan documents prepared by a lender.

16. The parties expressly indemnify and hold you harmless against third-party claims for any fees, costs or expenses where you have acted in good faith, with reasonable care and prudence and/or in compliance with these escrow instructions. You are not required to submit any such beneficiary statement and/or beneficiary demand to the parties for approval before the close of escrow unless expressly instructed to do so in writing. Should the party(ies) desire to pre-approve any such beneficiary statement and/or beneficiary demand, the party(ies) requesting the same shall deliver separate and specific written escrow instructions to you.

17. The parties agree that you have the responsibilities of an Escrow Holder only and there are no other legal relationships established in the terms and conditions of the escrow instructions. In connection with this escrow: (1) You shall have no duty or responsibility of notifying any of the parties to this escrow of any sale, resale, loan, exchange or other transaction involving any of the subject real property or personal property; (2) You shall have no responsibility or duty to disclose any benefit, including, but not limited to financial gain, realized by any person, firm or corporation involving any of the subject real property or personal property; and (3) You shall have no responsibility or duty to disclose any profit realized by any person, firm or corporation including, but not limited to, any real estate broker, real estate sales agent and/or a party to any other escrow, in connection therewith, although such other transaction may be handled by you in this escrow or in another escrow transaction. If, however, you are instructed in writing by any party, Lender or other entitled person to disclose any sale, resale, loan, exchange or other transaction involving any of the subject real property or personal property or any profit realized by any person, firm or corporation to any party to this escrow, you shall do so without incurring any liability to any party. You shall not be liable for any of your acts or omissions done in good faith nor for any claims, demands, losses or damages made or suffered by any party to this escrow, excepting such as may arise through or be caused by your willful neglect or gross misconduct.

18. Special Property Disclosures: A. Woodstove (Washoe County Only) – Washoe County Health Department ("HD") requires that as a condition of closing of escrow, Escrow Holder has in its possession either a "Compliance Certificate" or "Notice of Exemption" signed by the parties and approved in writing by HD. Escrow Holder is authorized to advance the cost of the HD documents from funds held in escrow. B. Nevada Property Disclosure – Nevada law mandates that a seller of residential property deliver to the buyer (a) a "Seller's Property Disclosure Form" or "Waiver Form" at least ten (10) days prior to transfer of the property, and (b) copies of homeowners association by laws, minutes and financial statements prior to the transfer of the property. Buyer and Seller agree that these deliveries shall be made between the parties outside of escrow and Escrow Holder is not to be concerned with this matter.

19. The parties shall cooperate with you in carrying out the escrow instructions they deposit with you and completing this escrow. The parties shall deposit into escrow, upon request, any additional funds, instruments, documents, instructions, authorizations, or other items that are necessary to enable you to comply with demands made on you by third parties, to secure policies of title insurance, or to otherwise carry out the terms of their instructions and close this escrow. If conflicting demands or notices are made or served upon you or any controversy arises between the parties or with any third person arising out of or relating to this escrow, you shall have the absolute right to withhold and stop all further proceedings in, and in performance of, this escrow until you receive written notification satisfactory to you of the settlement of the controversy by written agreement of the parties, or by the final order or judgment of a court of competent jurisdiction.

All of the parties to this escrow, jointly and severally, promise to pay promptly on demand, as well as to indemnify you and to hold you harmless from and against all administrative governmental investigations, audit and legal fees, litigation and interpleader costs, damages, judgments, attorneys' fees, arbitration costs and fees, expenses, obligations and liabilities of every kind (collectively "costs") which in good faith you may incur or suffer in connection with or arising out of this escrow, whether said costs arise during the performance of or subsequent to this escrow, directly or indirectly, and whether at trial, or on appeal, in administrative action, or in an arbitration. You are given a lien upon all the rights, titles and interests of the parties and all escrow papers and other property and monies deposited into this escrow to protect your rights and to indemnify and reimburse you. If the parties do not pay any fees, costs or expenses due you under the escrow instructions or do not pay for costs and attorneys' fees incurred in any litigation, administrative action and/or arbitration, on demand, they each agree to pay a reasonable fee for any attorney services which may be required to collect such fees or expenses, whether attorneys' fees are incurred before trial, at trial, on appeal or in arbitration.

20. ALL NOTICES, DEMANDS AND INSTRUCTIONS MUST BE IN WRITING. No notice, demand, instruction, amendment, supplement or modification of these escrow instructions shall be of any effect in this escrow until delivered in writing to you and mutually executed by all parties.

Any purported oral instruction, amendment, supplement, modification, notice or demand deposited with you by the parties or either of them shall be ineffective and invalid. You are to be concerned only with the directives expressly set forth in the escrow instructions, supplements and amendments thereto, and are not to be concerned with nor liable for items designated as "memorandum items" in the escrow instructions. These escrow instructions may be executed in counterparts, each of which shall be deemed an original regardless of the date of its execution and delivery. All such counterparts together shall constitute the same document.

The parties acknowledge and understand that you, as Escrow Holder, are not authorized to practice the law nor do you give financial advice. The parties are advised to seek legal and financial counsel and advice concerning the effect of these escrow instructions. The parties acknowledge that no representations are made by you about the legal sufficiency, legal consequences, financial effects or tax consequences of the within escrow transaction.

BUYERS INITIALS EF \_\_\_\_\_

SELLERS INITIALS \_\_\_\_\_

21. Your Escrow Holder agency shall terminate six (6) months following the date last set for close of escrow and shall be subject to earlier termination by receipt by you of mutually executed cancellation instructions. If this escrow was not closed or cancelled within the described six (6) month period, you shall have no further obligations as Escrow Holder except to disburse funds and documents pursuant to written escrow instructions and to interplead or otherwise dispose of funds and documents in accordance with a validly issued and validly served order from a court of competent jurisdiction. If the conditions of this escrow have not been complied with at the expiration date in these escrow instructions, you are instructed to complete the conditions at the earliest possible date, unless Buyer or Seller have made written demand upon you for the return of the funds and/or instruments deposited by Buyer or Seller and/or for cancellation of this escrow.

Should demands be made upon you, you may withhold and stop all further proceedings in this escrow without liability for interest on funds held or for damages until mutual cancellation instructions signed by all parties shall have been deposited with you. The parties, jointly and severally, agree that if this escrow cancels or is otherwise terminated and not closed, the parties shall pay for any costs and expenses which you have incurred or have become obligated for under these escrow instructions, including, but not limited to, attorneys' fees, arbitration fees and costs and reasonable escrow fees for the services rendered by you, the parties agree that such costs and expenses shall be paid and deposited in escrow before any cancellation or other termination of this escrow is effective. The parties agree that said charges for expenses, costs and fees may be apportioned between Buyer and Seller in a manner which, in your sole discretion, you consider equitable, and that your decision will be binding and conclusive upon the parties. Upon receipt of mutual cancellation instructions or a final order or judgment of a court of competent jurisdiction with accompanying writs of execution, levies or garnishments, you are instructed to disburse the escrow funds and instruments in accordance with such cancellation instruction, order or judgment and accompanying writ and this escrow shall, without further notice be considered terminated and cancelled.

22. If any check submitted to you is dishonored upon presentment for payment, you are authorized to notify all parties to the within escrow, their respective real estate brokers and real estate agents and any other person or entity you deem in your sole discretion necessary to notify.

23. The parties agree to release you from any and all liability of any kind or nature and to indemnify you from any loss, damages, claims, judgments or costs of any kind or nature resulting from or related to the release or discharge of hazardous or toxic wastes on the subject property whether it occurred in the past or present or may occur in the future which release or discharge is in violation of law, in excess of any state and federal standards, permit requirements and/or disclosure requirements existing at this time or which may exist at a future time. The parties represent that they made their own assessment of the condition of the subject property and have not relied on any of your representations in making the assessment. The parties are advised to seek independent legal and technical environmental expert advice in assessing the risks associated with potential hazardous or toxic wastes.

24. In these escrow instructions, wherever the context so requires, the masculine gender includes the feminine and/or neuter and the singular number includes the plural.

25. You are authorized to destroy or otherwise dispose of any and all documents, papers escrow instructions, correspondence and records or other material constituting or pertaining to this escrow at any time after five (5) years from the date of: (1) the close of escrow; (2) the date of cancellation; or (3) the date of the last activity without liability and without further notice to the parties.

26. Harmony Escrow, Inc. may receive benefits from funds deposited into the Harmony Escrow, Inc. Trust Account, based upon the bank analysis.

BUYER(S):

Elbio Fred

SELLER(S):

Federal Home Loan Mortgage Corporation  
By: Malcolm & Cisneros, a law Corporation, it's  
Attorney in Fact

By: Rande Johnsen, Its Assistant Secretary

BUYERS INITIALS

EF

SELLERS INITIALS

Harmony Escrow, Inc.  
17100 Gillette Avenue  
Irvine, CA 92614  
P: (949) 660-0050 • F: (949) 660-1051  
[fdominguez@harmonyescrow.com](mailto:fdominguez@harmonyescrow.com)

TO: Elbin Fred

Escrow No. 21951FD

**IMPORTANT**

WE WILL BE MAILING VARIOUS PAPERS AND DOCUMENTS TO YOU THROUGHOUT AND AFTER THE CLOSE OF YOUR ESCROW. SO THAT WE MAY SERVE YOU BETTER, PLEASE FURNISH US WITH YOUR CURRENT MAILING ADDRESS AND YOUR FUTURE ADDRESS. IN THE EVENT THAT YOU DO NOT YET KNOW YOUR FUTURE ADDRESS, PLEASE CALL US WHEN IT IS AVAILABLE OR PROVIDE US WITH A TEMPORARY ADDRESS AT THIS TIME. **THANK YOU FOR YOUR COOPERATION.**

NAME: Elwin Fred

Address where you would  
like escrow papers sent  
**BEFORE** close of escrow.

P.O. Box 443  
Number and Street (or) P.O. Box  
Carson City, NV. 89702 (775) 445-9883  
City State Zip Code Phone Number

Address where you would  
like escrow papers sent  
**AFTER** close of escrow.

(After) Elwin Fred PO Box 443  
Number and Street (or) P.O. Box  
Carson City, NV. 89702 (775) 445-9883  
City State Zip Code Phone Number

Effective date: OR Close of Escrow

Email Address: \_\_\_\_\_

BY COMPLETING THIS FORM FOR HARMONY ESCROW, INC. YOU HAVE MADE OUR JOB A LITTLE EASIER AND HAVE ASSURED YOURSELF THAT YOU WILL RECEIVE THE IMPORTANT PAPERS, DOCUMENTS AND ANY CHECKS THAT NEED TO BE SENT TO YOU AT A LATER DATE. **THANK YOU!!**

# CONFIDENTIAL INFORMATION STATEMENT

Harmony Escrow, Inc.

Escrow No.: 21951FD  
Order No.: 2924573

In order to expedite the completion of your transaction, we are requesting that you complete the following "Statement of Information" form. We are not unnecessarily interested in your personal affairs, however, we have been asked to insure the title to real property in which you are interested and that requires a title search.

<b>Party 1</b> <u>Elwin Lee Fred</u> FIRST MIDDLE LAST		<b>Party 2</b>	
FORMER LAST NAME(S), IF ANY <u>S. Tahoe, CA.</u>		FORMER LAST NAME(S), IF ANY	
BIRTH DATE <u>07-26-82</u>		BIRTH DATE	
BIRTHPLACE [REDACTED]		BIRTHPLACE	
SOCIAL SECURITY NUMBER [REDACTED]		SOCIAL SECURITY NUMBER	
DRIVER'S LICENSE NUMBER <u>P101204585</u>		DRIVER'S LICENSE NUMBER	
<input checked="" type="checkbox"/> AM SINGLE <input type="checkbox"/> AM MARRIED <input type="checkbox"/> AM UNMARRIED (divorced)		<input type="checkbox"/> AM SINGLE <input type="checkbox"/> AM MARRIED <input type="checkbox"/> AM UNMARRIED (divorced)	
NAME OF CURRENT SPOUSE (if different from Party 2) <u>None</u>		NAME OF CURRENT SPOUSE (if different from Party 1)	
NAME OF FORMER SPOUSE (IF NONE, WRITE "NONE")		NAME OF FORMER SPOUSE (IF NONE, WRITE "NONE")	

RESIDENCES LAST 10 YEARS				
Party One	<u>4999 Hwy 50 E.</u>	<u>Carson City, NV.</u>	<u>89701</u>	<u>6/01</u>
	Number and Street	City, State, Zip Code		From (Date)
				To (Date)
Party Two				
	Number and Street	City, State, Zip Code		From (Date)
				To (Date)

OCCUPATIONS LAST 10 YEARS				
Party One	<u>Construction</u>	<u>Silver Hills Service</u>	<u>50 rowee Mammothhouse, NV.</u>	<u>89423</u>
	Occupation	Firm Name	Address	No. Years
Party Two				
	Occupation	Firm Name	Address	No. Years

**Party One**

Signature: [Signature]  
 Date: 4-27-12  
 Home Phone: (775) 445-9883  
 Business Phone: Same  
 Email: fred.elwin@yahoo.com

**Party Two**

Signature: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Home Phone: \_\_\_\_\_  
 Business Phone: \_\_\_\_\_  
 Email: \_\_\_\_\_

FRED0081

APEN000067

PA000813



# COUNTER OFFER



1 Property address 3587 Desatova Drive, Carson City, NV 89701  
 2 In reference to the offer made by, Elvin Fred, Buyer,  
 3 dated April 10, 2012, the following Counter Offer is submitted:  
 4 Page 1 of 2

- 5 1. Purchase Price to be \$69,900.00. Close of Escrow to be On or Before 5/15/2012.
- 6 2. Title to be through Malcolm & Cisneros Law Firm. Escrow to be through Harmony.
- 7 Escrow/Earnest Money Check to be Re-Issued with either a Cashier's Check or Money Order
- 8 Payable to Harmony Escrow.
- 9 3. Buyer to Execute "Revised" Addendum "1" to Contract of Sale & Property Condition
- 10 Addendum and Release to coincide with Counter Offer. To be Signed & Returned within 48
- 11 Hours of Receipt, or contract will be cancelled.
- 12 4. Any Inspections to be COMPLETED within 10 days of Sellers Execution of Offer. If
- 13 Escrow does not Close due to no Fault of Seller, Buyer to be Responsible for any and all
- 14 Inspection Fees. Buyer may NOT bill Escrow for payment for Inspections.
- 15 5. Buyer is Purchasing Home in an "AS IS" Condition. Buyer is Responsible to Verify and
- 16 Satisfy Himself as to the Condition, Inspections, HOA information Etc. Pertaining to
- 17 Subject Property.
- 18 6. Per Addendum "1" to Contract of Sale Pg 2 of 7 #4, Per Diem to be \$100.00.
- 19 7. Per Offer & Acceptance Agreement:
- 20 a) Pg 1 of 7 Ln 5, Buyers agent to add City, State & Zip to line. (Per titles request).
- 21 b) Pg 2 of 7 Ln 20, Buyer to Initial "Waived".
- 22 c) Pg 3 of 7 Ln 19, Buyer to pay their portion of escrow fee.

24 **OTHER TERMS:** All other terms to remain the same.

26 **RIGHT TO ACCEPT OTHER OFFERS:** Seller reserves the right to accept any other offer prior to Buyer's written  
 27 acceptance of the Counter Offer. Acceptance shall not be effective until a copy of this Counter Offer, dated and signed  
 28 by Buyer, is received by Seller and/or Michael Specchio

30 **EXPIRATION:** This Counter Offer shall expire unless written acceptance is delivered to Seller or his/her Agent on or  
 31 before 12:00 ☐ AM ☒ PM, on April 13, 2012.

33 Seller: [Signature] Date: APR 23 2012 Time: \_\_\_\_\_  
 34 ~~For Federal Home Loan Mortgage Corp.~~  
 35 Seller: By: Rande D. Johnson FEDERAL HOME LOAN MORTGAGE CORPORATION  
 36 It's Assistant Secretary IT'S ATTORNEY IN FACT

## BUYER'S ACCEPTANCE, COUNTER TO COUNTER OFFER OR REJECTION OF AGREEMENT

39 ☒ **Acceptance of Counter Offer:** The undersigned Buyer accepts this Counter Offer to purchase:  
 40  
 41 ☐ **Counter to the Counter Offer:** Buyer signs this Counter Offer subject to a Counter to the Counter Offer  
 42 dated \_\_\_\_\_

44 ☐ **Rejection:** By his signature below, Buyer rejects the foregoing Counter Offer.

46 Buyer: [Signature] Date: 4-11-12 Time: 6:30 pm  
 47 Elvin Fred  
 48 Buyer: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

FRED0132  
 APEN000068

PA000814





# COUNTER OFFER



1 Property address 3587 Desatoya Drive, Carson City, NV 89701  
 2 In reference to the offer made by, Elvin Fred, Buyer,  
 3 dated April 10, 2012, the following Counter Offer is submitted:

4 Page 2 of 2

5 7. Continued: Per Offer & Acceptance Agreement:

6 d) Pg 3 of 7 Lns 45-48, NTE \$1,050 for 2 years. Per Homesteps Promotion, a 2 year Home  
 7 Warranty through Home Protect is Included in Purchase. (Buyer can visit  
 8 www.HomeProtect.org for more information). If Buyer elects to use a different Home  
 9 Warranty Company, Costs shall be Paid by the Buyer & Sellers Home Warranty to be Denied  
 10 "in writing".

11 e) Pg 4 of 7 Ln 46, any re-inspections to be paid by Buyer.

12 f) Pg 6 of 7 Lns 26 & 29, apply to this transaction. Ln 28(pg 28), Buyers agent to  
 13 provide executed copy.

14 g) Pg 6 of 7 Lns 39-40 to read: Addendum "1" to Contract of Sale, Property Condition  
 15 Addendum & Release, Mold & Earthquake Disclosures.

16 \_\_\_\_\_  
 17 \_\_\_\_\_  
 18 \_\_\_\_\_  
 19 \_\_\_\_\_  
 20 \_\_\_\_\_  
 21 \_\_\_\_\_  
 22 \_\_\_\_\_  
 23 \_\_\_\_\_

24 **OTHER TERMS:** All other terms to remain the same.

25  
 26 **RIGHT TO ACCEPT OTHER OFFERS:** Seller reserves the right to accept any other offer prior to Buyer's written  
 27 acceptance of the Counter Offer. Acceptance shall not be effective until a copy of this Counter Offer, dated and signed  
 28 by Buyer, is received by Seller and/or Michael Specchio.

29  
 30 **EXPIRATION:** This Counter Offer shall expire unless written acceptance is delivered to Seller or his/her Agent on or  
 31 before 12:00 ☐ AM ☒ PM, on April 13, 2012.

32  
 33 Seller: R. D. Johnsen Date: APR 23 2012 Time: \_\_\_\_\_

34 ~~For Federal Home Loan Mtg Corp~~  
 35 Seller: By: Rande D. Johnsen FEDERAL HOME LOAN MORTGAGE CORPORATION  
 36 It's Assistant Secretary BY MALCOLM & CISNEROS, A LAW CORPORATION Time: \_\_\_\_\_  
 37 IT'S ATTORNEY IN FACT

38 **BUYER'S ACCEPTANCE, COUNTER TO COUNTER OFFER OR REJECTION OF AGREEMENT**

39 ☒ **Acceptance of Counter Offer:** The undersigned Buyer accepts this Counter Offer to purchase.

40  
 41 ☐ **Counter to the Counter Offer:** Buyer signs this Counter Offer subject to a Counter to the Counter Offer  
 42 dated \_\_\_\_\_.

43  
 44 ☐ **Rejection:** By his signature below, Buyer rejects the foregoing Counter Offer.

45  
 46 Buyer: Elvin Fred Date: 4-11-12 Time: 6:30 pm

47  
 48 Buyer: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

**STATE OF NEVADA  
DECLARATION OF VALUE FORM**

**1. Assessor Parcel Number(s)**

a) 010-443-11  
b) \_\_\_\_\_  
c) \_\_\_\_\_  
d) \_\_\_\_\_

FOR RECORDERS OPTIONAL USE ONLY  
Document #: 421984  
Date of Recording: 05/04/2012

**2. Type of Property:**

a) ☐ Vacant Land b) ☒ Single Fam. Res.  
c) ☐ Condo/Twnhse d) ☐ 2-4 Plex  
e) ☐ Apt. Bldg f) ☐ Comm'l/Ind'l  
g) ☐ Agricultural h) ☐ Mobile Home  
Other \_\_\_\_\_

FOR RECORDER'S OPTIONAL USE ONLY  
Book: \_\_\_\_\_ Page: \_\_\_\_\_  
Date of Recording: \_\_\_\_\_  
Notes: 60%

**3. Total Value/Sales Price of Property**

\$ 69,900.00

Deed in Lieu of Foreclosure Only (value of property) \_\_\_\_\_

Transfer Tax Value:

\$ 69,900.00

Real Property Transfer Tax Due

\$ 273.00

**4. If Exemption Claimed:**

a. Transfer Tax Exemption per NRS 375.090, Section \_\_\_\_\_

b. Explain Reason for Exemption: \_\_\_\_\_

**5. Partial Interest: Percentage being transferred: 100.00 %**

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature \_\_\_\_\_

Capacity Agent

Signature \_\_\_\_\_

Capacity Grantor

**SELLER (GRANTOR) INFORMATION**  
**(REQUIRED)**

Print Name: FEDERAL HOME LOAN Mortgage Corporation  
Address: 17100 GILLETTE AVENUE  
City: IRVINE  
State: CA Zip: 92614

**BUYER (GRANTEE) INFORMATION**  
**(REQUIRED)**

Print Name: Elbin Fred  
Address: P.O. Box 443  
City: Carson City  
State: Nevada Zip: 89702

**COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)**

Print Name: Service LLC Escrow #: 8984573  
Address: 2nd Commerce  
City: IRVINE State: CA Zip: 92614

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

R.O.T.T. \$ 273.00  
 Order No. 2924573  
 Escrow No. 21951FD  
 Parcel No. 010-443-11

RECORDED AT THE REQUEST OF  
 SERVICELINK IRVINE  
 05/04/2012 02:49PM  
 FILE NO. 421984  
 ALAN GLOVER  
 CARSON CITY RECORDER  
 FEE \$15.00 DEP RMH

AND WHEN RECORDED MAIL TO:  
 AND MAIL TAX STATEMENT TO:  
 ELBIN FRED  
 P.O. Box 443  
 Carson City, NV 89702

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT DEED**

THE UNDERSIGNED GRANTOR(S) DECLARE(S) THAT DOCUMENTARY TRANSFER TAX IS and CITY \$  
☒ computed on full value of property conveyed, or  
☐ computed on full value less liens or encumbrances remaining at the time of sale.  
☐ unincorporated area: ☒ City of Carson City, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,  
**Federal Home Loan Mortgage Corporation**

hereby GRANT(S) to **Elbin Fred, A Single Man**

the following described real property in the County of Carson City, State of Nevada:

Legal description attached hereto and made a part hereof as Exhibit "A"

Date April 25, 2012

Federal Home Loan Mortgage Corporation  
 By: Malcolm & Cisneros, a Law Corporation, as attorney in fact

By: Rande D. Johnsen, Its Assistant Secretary

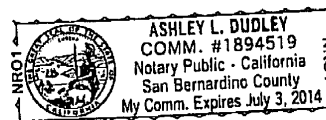
STATE OF CALIFORNIA }  
 } S.S.  
 COUNTY OF Orange }

On May 3, 2012, before me, **ASHLEY L. DUDLEY**,  
 a notary public, personally appeared Rande D. Johnsen who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Ashley L. Dudley (Seal)



421984

FRED0201  
 APEN000071  
 PA000817

## **Exhibit "A"**

### **Legal Description**

All that certain parcel of land situate in the City of Carson City, County of Carson City and State of Nevada, being known and designated as follows:

Parcel N-33 as shown on Parcel Map No. 1704 for Stanton Park Development, Inc., filed in the office of the Recorder of Carson City, Nevada on August 11, 1989 as File No. 89253.

Tax ID: 010-443-11

3857 Desatoya Drive, Carson City, NV 89701

UNOFFICIAL COPY

## State of Nevada Declaration of Value

## 1. Assessor's Parcel Number:

a) 01044311  
 b) \_\_\_\_\_  
 c) \_\_\_\_\_  
 d) \_\_\_\_\_

## FOR RECORDER'S OPTIONAL USE ONLY

Document/Instrument # ~ 452637Date of Recording APR 06 2015

Notes: \_\_\_\_\_

## 2. Type of Property:

- a) ☐ Vacant Land  
 c) ☐ Condo/Townhouse  
 e) ☐ Apartment Bldg.  
 g) ☐ Agricultural  
 e) ☐ Other \_\_\_\_\_
- b) ☒ Single Family Residence  
 d) ☐ 2-4 Plex  
 f) ☐ Commercial/Industrial  
 h) ☐ Mobile Home

## 3. Total Value/Sales Price of Property:

\$ 93,000

Deed in Lieu of Foreclosure Only (value of prop.) \$ \_\_\_\_\_

Transfer Tax Value: \$ \_\_\_\_\_

Real Property Transfer Tax Due: \$ 36270344.10  
18.60

## 4. If Exemption Claimed:

a) Transfer Tax Exemption, per NRS 375.090, Section: \_\_\_\_\_

b) Explain Reason for Exemption: \_\_\_\_\_

## 5. Partial Interest: Percentage being transferred: \_\_\_\_\_ %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided therein. Furthermore, the disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month.

Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature \_\_\_\_\_

Capacity \_\_\_\_\_

Signature \_\_\_\_\_

Capacity \_\_\_\_\_

## SELLER (GRANTOR) INFORMATION

## REQUIRED

Print Name: Elna Fred  
 Address: P.O. Box 443  
 City: Carson City  
 State & Zip: NV 89402

## BUYER (GRANTEE) INFORMATION

## REQUIRED

Print Name: Sylvia Fred  
 Address: P.O. Box 1150  
 City: Red Lake  
 State & Zip: MN 56671

## COMPANY/PERSON REQUESTING RECORDING (Required If Not Seller Or Buyer)

Print Name: \_\_\_\_\_

Escrow # \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

FRED0212  
 APEN000073  
 PA000819

## RECORDING REQUESTED BY:

Name: Sylvia Fred

## INSTRUMENT PREPARED BY:

Name: Elvin Fred  
 Address: PO Box 443  
 Carson City, Nevada 89702

(Above reserved for official use only)

## RETURN DEED TO:

Name: Sylvia Fred  
 Address: PO Box 1150  
 Red Lake, Minnesota 56671

## SEND TAX STATEMENTS TO:

Name: Sylvia Fred  
 Address: PO Box 1150  
 Red Lake, Minnesota 56671

Title Order # N/A

Tax Parcel/APN # 01044311  
 Escrow # N/A

## QUIT CLAIM DEED FOR NEVADA

(Joint Tenants)

STATE OF NEVADA  
 COUNTY OF CARSON CITY

DATE: 03/31/2015

KNOW ALL MEN BY THESE PRESENTS THAT, for and in consideration of the sum of \$0, the receipt and sufficiency of which is hereby acknowledged, Elvin Fred, ("Grantor") hereby quitclaims to Sylvia Fred, ("Grantee") and Grantee's heirs and assigns forever, all of Grantor's right, title, interest, and claim, and subject to all easements, encumbrances, protective covenants, rights-of-way, mineral rights, and other conditions and restrictions, if any, in or to the following described real estate (the "Property") located at 3587 Desatoya Drive, Carson City, Nevada 89701.

Grantor 1: Elvin Fred  
 Marital Status: Single  
 Address: PO Box 443  
 Carson City, Nevada 89702

452637

FRED0213  
 APEN000074  
 PA000820

Grantee 1: Sylvia Fred  
Marital Status: Single  
Address: PO Box 1150  
Red Lake, Minnesota 56671

Vesting Information / Property Interest: Sole Owner

**Signatures**

Grantor signed, sealed, and delivered this Quit Claim Deed to Grantee on  
04-01-2015 (date).

Grantor (or authorized agent)

x/

Print Name: Elwin Fred

**Notary Public**

STATE OF Nevada  
COUNTY OF Carson City

On this the 1 day of April, 2015, the foregoing instrument was sworn to and  
acknowledged before me by ELWIN LEE FRED, known  
or proven to me to be the person(s) whose name(s) is/are subscribed to within the  
instrument.

WITNESS my hand and official seal.

Joyce Hoffer  
(Print Name)

Joyce Hoffer [Affix seal]  
(Signature)

NOTARY PUBLIC

My Commission Expires: 7-10-2018



452637

FRED0214  
APEN000075  
PA000821

## **Exhibit "A"**

### **Legal Description**

All that certain parcel of land situate in the City of Carson City, County of Carson City and State of Nevada, being known and designated as follows:

Parcel N-33 as shown on Parcel Map No. 1704 for Stanton Park Development, Inc., filed in the office of the Recorder of Carson City, Nevada on August 11, 1989 as File No. 89253.

Tax ID: 010-443-11

3857 Desatoya Drive, Carson City, NV 89701

UNOFFICIAL COPY

~~446623~~

452637



PISANELLIBICE PLLC  
400 SOUTH 7TH STREET, SUITE 300  
LAS VEGAS, NEVADA 89101

Jordan T. Smith, Esq., Bar No. 12097  
[JTS@pisanellibice.com](mailto:JTS@pisanellibice.com)  
Emily A. Buchwald, Esq., Bar No. 13442  
[EAB@pisanellibice.com](mailto:EAB@pisanellibice.com)  
John A. Fortin, Esq., Bar No. 15221  
[JAF@pisanellibice.com](mailto:JAF@pisanellibice.com)  
PISANELLI BICE PLLC  
400 South 7th Street, Suite 300  
Las Vegas, Nevada 89101  
Telephone: 702.214.2100

*Pro Bono Counsel for  
Plaintiff Sylvia Fred*

FIRST JUDICIAL DISTRICT COURT  
CARSON CITY, NEVADA

SYLVIA FRED,

Plaintiff,

v.

ANDREW RASOR, CARSON CITY  
TREASURER AND EX OFFICIO TAX  
RECEIVER;  
CARSON CITY BOARD OF  
SUPERVISORS;  
INVESTIGATIVE DIVISION OF THE  
DEPARTMENT OF PUBLIC SAFETY  
(TRI-NET NARCOTICS TASK FORCE)

Defendants.

SYLVIA FRED,

Petitioner,

v.

ANDREW RASOR, CARSON CITY  
TREASURER AND EX OFFICIO TAX  
RECEIVER;  
CARSON CITY BOARD OF  
SUPERVISORS;

Respondent,

and

INVESTIGATIVE DIVISION OF THE  
DEPARTMENT OF PUBLIC SAFETY  
(TRI-NET NARCOTICS TASK FORCE)

Real Party in Interest.

REC'D & FILED

2021 MAY 24 AM 11:12

AUDREY ROWLATT  
CLERK

BY K. PETERSON  
DEPUTY

Case No.: 21R00005 IB

Dept. No.: II

COMPLAINT OR, IN THE  
ALTERNATIVE, PETITION FOR A  
WRIT OF PROHIBITION AGAINST  
THE CARSON CITY TREASURER AND  
CARSON CITY BOARD OF  
SUPERVISORS DELINQUENT TAX  
PROCEEDINGS

(Exempt from Arbitration per NAR 3(A)  
Declaratory Relief Requested)

**NATURE OF THE ACTION**

Per FDCR 3.6 this pleading does not contain any personal information as defined in NRS 239B.030(4), and undersigned counsel acknowledges that when any additional documents, an affirmation will be provided only if the document does contain personal information.

Plaintiff/Petitioner Sylvia Fred ("Sylvia") seeks a declaratory judgment, asking this Court to issue an order determining who was obligated to pay the taxes on 3587 Desatoya Drive following Defendant/Real Party in Interest the Investigation Division of the Department of Public Safety (Tri-Net Narcotics Task Force) ("Tri-Net") forfeiture through an Amended Default Judgment and eviction of Sylvia's family in 2019. Sylvia challenged the validity of the Amended Default Judgment in the district court, was denied relief because the district court concluded Sylvia lacked standing, and her appeal is currently pending before the Nevada Supreme Court. During the pendency of the appeal, based on information and belief, Tri-Net failed to pay any of the taxes on the property. As a result, Defendants/Respondents, Andrew Rasor,<sup>1</sup> in his official capacity as the Carson City Treasurer and Ex-Officio Tax Receiver, ("Carson City Treasurer"), and the Carson City Board of Supervisors ("Carson City") have initiated a delinquent tax foreclosure process. Through this process, if the delinquent tax burden is not paid in full by June 7, 2021, the Carson City Treasurer will issue himself a deed, holding title to the property in trust, and later, if authorized by Carson City, the Treasurer will sell the property at public auction. In sum, Tri-Net (wrongfully) has both title and actual possession of property but failed to pay taxes, putting Sylvia's property at risk while her appeal before the Nevada Supreme Court in which she is challenging Tri-Net's ownership is pending. Therefore, equitable relief is appropriate to prevent the foreclosure and potential sale of Sylvia's property.

Additionally, and in the alternative, Sylvia seeks a writ of prohibition suspending the delinquent tax foreclosure process of the Carson City Treasurer and Carson City and prohibiting them from issuing a deed and selling Sylvia's home at public auction while Sylvia's civil forfeiture proceedings remain pending.

<sup>1</sup> Based on information and belief, Andrew Rasor replaced Gayle Robertson in April 2021 as Carson City Treasurer.

**JURISDICTION AND VENUE**

1. This Court has jurisdiction to declare rights, status, and other legal relations whether or not further relief is or could be claimed. NRS 30.030.

2. This Court has jurisdiction to grant a writ of prohibition pursuant to NRS 34.330 because there is not a plain, speedy, and adequate remedy in the ordinary course of the law.

3. Venue is proper in this jurisdiction because the real property under dispute 3587 Desatoya Drive, Carson City, Nevada 89701, Parcel Number: 010-443-11 is within the jurisdiction of this Court, as well as this action is brought against the county in which this court is located. NRS 13.010; NRS 13.030. The amount in controversy exceeds \$15,000.00.

**THE PARTIES**

4. Petitioner, Sylvia Fred ("Sylvia") is the owner of the property located at 3587 Desatoya Drive, Carson City, Nevada 89701 ("Subject Property").

5. Defendant/Real Party in Interest, The Investigative Division of the Department of Public Safety (Tri-Net Narcotics Task Force ("Tri-Net")) is a law enforcement agency of the State of Nevada.

6. Upon information and belief, Defendant/Respondent Andrew Rasor, in his official capacity is the Carson City Treasurer and Ex-Officio Tax Receiver for Carson City ("Carson City Treasurer") and has statutory authority to issue deeds to himself, and later sell real property at public auction when owners fail to pay their property taxes.. NRS 361.5648; NRS 361.565; NRS 361.585.

7. Upon information and belief, Defendant/Respondent Carson City Board of Supervisors ("Carson City") is the entity that supervises the Carson City Treasurer and authorizes delinquent tax foreclosure and sale proceedings. NRS 361.5648; NRS 361.565; NRS 361.585.

**GENERAL ALLEGATIONS**

**A. Sylvia's home was seized and forfeited through civil forfeiture proceedings and those proceedings are currently pending before the Nevada Supreme Court.**

8. In 2015, Elvin Fred ("Elvin"), Sylvia's brother, was arrested and charged through a criminal complaint for violating the Uniformed Controlled Substance Act. Due to the nature of Elvin's charges, Tri-Net simultaneously moved to forfeit the home, and recorded a *lis pendens* on

1 the property. When the district court stayed the civil forfeiture proceedings pending resolution of  
2 Elvin's criminal proceedings, Tri-Net provided Sylvia notice of the stay.

3 9. In 2018, after Elvin's criminal proceedings reached finality, *Fred (Elvin) v. State*,  
4 Docket No. 72521 (Order of Affirmance, Mar. 14, 2018), Tri-Net moved to lift the stay entered in  
5 the civil forfeiture proceedings but did not provide notice to Sylvia.

6 10. In May 2019, an Amended Default Judgment was entered against the home and the  
7 district court ordered that Tri-Net shall "receive the Defendant property, as described and that this  
8 Judgment by Default shall be sufficient authority upon which [Tri-Net] may take possession of  
9 Defendant property."

10 12. In July 2019, Tri-Net evicted Sylvia's family and tenants from her property and  
11 shortly thereafter, Sylvia moved *pro se* in the district court to vacate the default judgment claiming  
12 she was the lawful owner, and that Tri-Net violated her constitutional rights to own property and  
13 her procedural due process rights.

14 13. Tri-Net never challenged Sylvia's ownership claims in the district court. However,  
15 prior to any substantive opposition by Tri-Net, the district court *sua sponte* found Sylvia lacked  
16 standing to challenge the default judgment

17 14. Sylvia timely appealed this decision, and the Supreme Court "determined that the  
18 appointment of pro bono counsel to represent [Sylvia] would assist this court in reviewing this  
19 appeal." *Fred v. Tri-Net*, Case No. 80194 (Aug. 27, 2020, Order Regarding Pro Bono Counsel).  
20 The Supreme Court then reinstated briefing upon association of undersigned pro bono counsel.

21 15. On January 22, 2021, Sylvia filed her opening brief, Tri-Net filed its answering brief  
22 on March 8, 2021, and on April 7, 2021, Sylvia filed her reply brief. Thus, briefing for Sylvia's  
23 appeal is complete and pending resolution before the Nevada Supreme Court.

24 **B. Carson City Informs Sylvia of its Statutory Obligations and Intent to Issue a**  
25 **Deed if Delinquent Taxes are not Paid.**

26 16. On April 12, 2021, Sylvia received a letter in the mail from the Carson City  
27 Treasurer, *see supra* n.1, in which it stated  
28

1 In accordance with NRS 361.5648, 361.565, and 361.585, unless the following delinquent  
2 taxes on your property in the name of SYLVIA FRED, owner(s), are paid in full on or  
before the 7<sup>th</sup> Monday in June, 2021 a Deed will be issued to Carson City.

3 ...

4 The above-mentioned parcel [Parcel Number: 010-443-11 Address 3587 Desatoya Dr.] will  
5 be subject to the public sale process upon approval from the Carson City Board of  
Supervisors.

6 (Ex. [1]. Carson City Treasurer's Letter, dated Apr. 7, 2021 (emphasis in original).)

7 17. On information and belief, Tri-Net failed to pay the property taxes after Tri-Net  
8 obtained the Amended Default Judgment and evicted Sylvia's family and tenants. (Ex. [2] (attaching  
9 a true and correct copy of Parcel Number: 010-443-11 property tax information).) Importantly  
10 Tri-Net also failed to record the Amended Default Judgment with the Carson City recorder. (*Id.*)  
11 Sylvia is listed as the current owner of the Subject Property.

12 18. NRS 361.5648(2) provides statutory authority to the Carson City Treasurer

13 if the amount [of delinquent taxes] is not paid by or on behalf of the taxpayer or his or her  
14 successor in interest, the tax receiver will, at 5 p.m. on the first Monday in June of the  
15 current year, issue to the county treasurer, as trustee for the State and County, a certificate  
16 authorizing the country treasurer to hold the property, subject to redemption within 2 years,  
17 or within 1 year if the property is determined to be abandoned pursuant to NRS 361.567,  
18 after the date of the issuance of the certificate, by payment of the taxes and accruing taxes,  
penalties and costs, together with interest on the taxes at the rate of 10 percent per annum,  
assessed monthly, from the date due until paid as provided by law, except as otherwise  
provided in NRS 360.232 and 360.320, and that redemption may be made in accordance  
with the provisions of chapter 21 of NRS in regard to real property sold under execution.

19 NRS 361.5648(2)(d).

20 19. Moreover, "[w]ithin 30 days after mailing the original notice of delinquency, the tax  
21 receiver shall issue his or her personal affidavit to the board of county commissioners affirming  
22 that due notice has been mailed with respect to each parcel." NRS 361.5648(4).

23 **C. The civil forfeiture proceedings and Tri-Net's failure to pay the property taxes**  
24 **places Carson City's statutory authority in direct conflict therefore this Court**  
**should issue a Writ of Prohibition**

25 20. "Since a forfeiture proceeding is *in rem*, it makes use of the legal fiction that the  
26 [property] committed the crime. Therefore, the proceeding is against the *res* on the theory that  
27 property is tainted." *City of Sparks v. Nason*, 107 Nev. 202, 203-04 (1991); *see also* NRS  
28 179.1171(4). As thoroughly detailed in Sylvia's appellate briefing, there are several adverse

1 incentives present in the current statutory civil forfeiture scheme. This newly realized problem with  
2 delinquent taxes not being paid by the law enforcement entity that possesses Sylvia's home simply  
3 adds to that list.

4 21. For example, Sylvia could prevail in the Nevada Supreme Court regarding her  
5 standing to challenge to the default judgment, which would mean that Tri-Net failed to provide  
6 sufficient notice and the default judgment is void. *See Maiola v. State*, 120 Nev. 671, 675, 99 P.3d  
7 227, 230 (2004) ("A default judgment that is not supported by proper service is void."); NRC  
8 60(b)(4). Thus, Sylvia would be entitled to regain both title and actual possession of her home.

9 22. However, due to Tri-Net's failure to pay the property taxes on the property that it  
10 was wrongfully awarded while the litigation and appeal was pending, Sylvia would still lose her  
11 home through the delinquent tax proceedings by Carson City absent intervention by this Court. *See*  
12 NRS 361.5648(2)(d).

13 23. NRS 179.1156 to NRS 179.121, Nevada's civil forfeiture statutory scheme do not  
14 provide guidance on the payment of property taxes. In addition, there is no process set out in case  
15 law that addresses this situation where a property owner's home has been forfeited through an  
16 Amended Default Judgment in a civil forfeiture proceeding and her family and tenants (the source  
17 of income that would provide the necessary funds to pay the property taxes) have been evicted from  
18 the property and the property owner faces a delinquent tax foreclosure and sale.

19 24. The current proceedings have taken two years to get to the Nevada Supreme Court  
20 to determine the still unresolved threshold question of standing. Moreover, title over Sylvia's home  
21 has been clouded since April 2015 when Tri-Net, without reason, entered a *lis pendens* on the  
22 property.

23 25. Therefore, Sylvia asks this Court to grant her equitable relief to protect her  
24 ownership interest, and provide her the ability to truly obtain possession of her home following her  
25 appeal before the Nevada Supreme Court.

26 ///

**FIRST CLAIM FOR RELIEF**  
**(Declaratory Relief)**

26. Sylvia repeats and realleges the allegations set forth above as though fully set forth herein.

27. A justiciable controversy exists that warrants a declaratory judgment pursuant to Nevada's Uniform Declaratory Judgments Act, NRS 30.010 to 30.160, inclusive.

28. On May 9, 2019, the Court entered a Notice of Entry of Amended Default Judgment, stating that Tri-Net shall "receive the Defendant property, as described and that this Judgment by Default shall be sufficient authority upon which [Tri-Net] may take possession of Defendant property." Based on information and belief, sometime in July 2019, Tri-Net evicted Sylvia's family and tenants and obtained actual possession of the subject property.

29. Based on information and belief, Tri-Net has both title and actual possession of the property under the court order discussed above.

30. Sylvia disputes that Tri-Net is the valid and lawful owner of the property at Parcel Number: 010-443-11 Address 3587 Desatoya Dr., and has appealed the district court's Order Denying Motion to Vacate Default Judgment.

31. Without conceding that Tri-Net is the proper owner of the subject property, there is a justiciable controversy about who was obligated to pay the property taxes on the Subject Property during the pendency of the appeal. The failure to pay taxes on the Subject Property has resulted in the Carson City initiating the delinquent tax foreclosure proceedings.

32. Sylvia seeks a declaration from this Court determining who was obligated to pay the property taxes on the Subject Property during the pendency of Sylvia's appeal.

33. As a result of the acts and omissions of the Carson City Treasurer, Carson City, and Tri-Net, Sylvia has been compelled to retain the services of an attorney for the protection of her interests.

**SECOND CLAIM FOR RELIEF**  
**(Writ of Prohibition to Arrest Carson City's Delinquent Tax Foreclosure Proceedings)**

34. Sylvia repeats and realleges the allegations set forth above as though fully set forth herein.

35. Pursuant to NRS 34.150 et seq., Petitioner Sylvia Fred hereby petitions this Court for the issuance of a Writ of Prohibition directing Defendants/Respondents to arrest the statutory delinquent tax foreclosure proceedings. This petition is brought on the following grounds:

36. "Writ relief is an extraordinary remedy that is only available if a petitioner does not have 'a plain, speedy and adequate remedy in the ordinary course of law.'" *In re William J. Raggio Family Trust*, 136 Nev. 172, 175, 460 P.3d 969, 972 (2020) (quoting NRS 34.330).

37. Nevada's statutory civil forfeiture scheme and Nevada case law are silent regarding the obligations of the law enforcement entity's or previous owner's respective duties to pay the property taxes while the forfeiture proceeding is pending. Thus, Sylvia lacks a "plain, speedy, and adequate remedy in the ordinary course of law" and this Court should issue a writ of prohibition to arrest Carson City's delinquent tax foreclosure proceedings while the ownership dispute is before the Nevada Supreme Court.

38. "A writ of prohibition is appropriate when the relief is to arrest the proceedings." *Toll v. Wilson*, 135 Nev. 430, 432 n.1, 453 P.3d 1215, 1217 n.1 (2019); *see also* NRS 34.320 (highlighting that a writ of prohibition may be issued to "any . . . board or person"). "A writ of prohibition is an extraordinary remedy, and therefore, the decision to entertain the petition lies within [this Court's] discretion." *Daane v. Eighth Jud. Dist. Ct.*, 127 Nev. 654, 655, 261 P.3d 1086, 1087 (2011). "The petitioner bears the burden of demonstrating that extraordinary [writ] relief is warranted." *Id.* at 565, 261 P.3d at 1087 (internal quotation marks omitted) (alteration in the original).

39. Because resolution of the Nevada Supreme Court civil forfeiture proceedings will determine the question of who owes the property taxes accrued against the home, Sylvia asks this Court to exercise its discretion and arrest Carson City's ability to finalize the delinquent tax foreclosure procedure.



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400 SOUTH 7TH STREET, SUITE 300  
LAS VEGAS, NEVADA 89101

40. Sylvia will suffer significant damages as a result of the actions of the Carson City Treasurer and Carson City if this Court does not arrest the tax delinquent foreclosure proceedings.

41. As a result of the acts and omissions of the Carson City Treasurer, Carson City, and Tri-Net, Sylvia has been compelled to retain the services of an attorney for the protection of her interests.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff/Petitioner, Sylvia Fred prays for judgment as follows:

1. A declaration determining that Tri-Net was obligated to pay the property taxes on the Subject Property during the pendency of the contested civil forfeiture proceedings.
2. For a temporary restraining order, preliminary, and permanent injunctive relief prohibiting Carson City Treasurer and Carson City from issuing itself a deed and selling Sylvia's home at public auction prior to resolution of the civil forfeiture proceedings, including in the Nevada Supreme Court.
3. For a writ of prohibition to arrest the Carson City Treasurer and Carson City's statutory delinquent tax foreclosure proceeding while Sylvia's appeal is pending;
4. For an award of reasonable costs and attorneys' fees as provided by law; and
5. Any additional relief this Court deems just, proper, and equitable.

Plaintiff reserves the right to amend this complaint to monetary damages

DATED this 19th day of May 2021.

PISANELLI BICE PLLC

By: 

Jordan T. Smith, Esq., #12097  
Emily A. Buchwald, Esq., #13442  
John A. Fortin, Esq., #15221  
400 South 7th Street, Suite 300  
Las Vegas, Nevada 89101

*Pro Bono Counsel for Plaintiff Sylvia Fred*

PISANELLI BICE PLLC  
400 SOUTH 7TH STREET, SUITE 300  
LAS VEGAS, NEVADA 89101

**DECLARATION OF JOHN A. FORTIN, ESQ. IN SUPPORT OF  
WRIT OF PROHIBITION**

I, John A. Fortin, declare as follows:

1. I am an associate at the law firm of Pisanelli Bice PLLC and counsel for Sylvia Fred.

2. I verify that I have read the foregoing PETITION FOR WRIT OF PROHIBITION that the same is true to my own knowledge, except for those matters therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct based upon my knowledge, information, and belief.

DATED this 19th day of May 2021.

  
JOHN A. FORTIN, ESQ.

# EXHIBIT 1

FRED000288  
APEN000087  
PA000833



## CARSON CITY, NEVADA

CONSOLIDATED MUNICIPALITY AND STATE CAPITAL

Certified Letter: 7019 1120 0001 7366 1340

Date: April 7, 2021

SYLVIA FRED  
PO BOX 1150  
RED LAKE, MN 56671

Dear Taxpayer:

In accordance with NRS 361.5648, 361.565, and 361.585, unless the following delinquent taxes on your property in the name of SYLVIA FRED, owner(s), are **paid in full on or before the 7<sup>th</sup> Monday in June, 2021** a Deed will be issued to Carson City:

Parcel Number: 010-443-11

Address: 3587 DESATOYA DR

Delinquent Taxes:  
\$8,529.63

Penalties & Costs:  
\$2,318.66

Estimated Total Due:  
\$10,848.29

The estimated amount due does not include publication charges on the property or any additional penalties and costs that may be charged. **Please contact our office for the correct amount to remit** in order to avoid further delay in the payment of your taxes.

The above-mentioned parcel will be subject to the public sale process upon approval from the Carson City Board of Supervisors, if not paid prior to Monday, June 7, 2021.

If you would like to review your tax status, and to make a payment online, please go to our web site at: <http://www.carsonpayments.com>

Sincerely,

*Gayle Robertson, CPA*

Gayle Robertson, CPA  
Carson City Treasurer and  
Ex-Officio Tax Receiver  
Carson City, Nevada

Gayle Robertson, CPA  
Carson City Treasurer and  
Ex-Officio Tax Receiver  
Carson City, Nevada

**GAYLE ROBERTSON, TREASURER**  
201 North Carson Street, Suite 5 • Carson City, Nevada 89701  
(775) 887-2092 • Fax (775) 887-2102

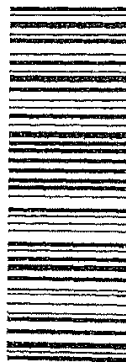
FRED0001

FRED000289  
APEN000088

PA000834



CARSON CITY TREASURER  
201 North Carson Street, Suite 5  
Carson City, Nevada 89701



7019 1120 0001 7366 1340

NAME  
1st Notice  
2nd Notice  
Return

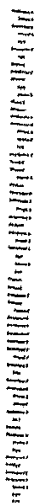


1020

58671

U.S. POSTAGE PAID  
POST OFFICE  
CARSON CITY, NV  
APR 06-21  
AMOUNT  
**\$7.00**  
R2305P151512-07

5867181150 8013



FRED0002

FRED000290  
APEN000089  
PA000835

# EXHIBIT 2

FRED000291  
APEN000090  
PA000836

4/14/2021

Parcel Details for 01044311

Carson City Property Inquiry

Property Information

Parcel ID	010-443-11	Parcel	0.1500
Tax Year	2020	Acreage	
Land Use	RES	Assessed	45,118
Group		Value	
Land Use	200 - Single Family	Tax Rate	3.5700
	Residence	Total Tax	\$4,205.58
Zoning	SF6	Fiscal Year	
Tax District	024	(2020 - 2021)	
Site Address	3587 DESATOYA DR	Total Unpaid	\$10,897.16
		All Years	

Pay Taxes

Public  
Notes  
ROOFED PORCH, LIVING RM, DINING RM

Sketches & Photos

Converted Sketch



<https://carsoncitynv.devnetwedge.com/parcel/view/01044311/2020#PaymentHistory>

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FRED0003

FRED000292  
APEN000091

PA000837

4/14/2021

Parcel Details for 01044311

Assessments				
Taxable Value	Land	Building	Per. Property	Totals
Residential	45,000	83,909	0	128,909
Com / Ind.	0	0	0	0
Agricultural	0	0	0	0
Exempt	0	0	0	0
Pers. Exempt				0
Total	45,000	83,909	0	128,909
Assessed Value	Land	Building	Per. Property	Totals
Residential	15,750	29,368	0	45,118
Com / Ind.	0	0	0	0
Agricultural	0	0	0	0
Exempt	0	0	0	0
Pers. Exempt				0
Total	15,750	29,368	0	45,118
	New Land	New Const.	New P.P.	Omit Bldg
Residential	0	0	0	0
Com / Ind.	0	0	0	0
Agricultural	0	0	0	0
Exempt	0	0	0	0
Totals	0	0	0	0

Assessor Descriptions					
Assessor Descriptions	Subdivision Name	Section	Township	Range	Block & Lot
PARCEL N33 MAP #1704		15	T15N	R20E	

No Personal Exemptions

Billing Fiscal Year (2020 - 2021)								
Installment	Date Due	Date Paid	Tax Billed	Cost Billed	Penalty/Interest	Total Due	Amount Paid	Total Unpaid
1	8/17/2020		\$2,610.60	\$0.00	\$104.42	\$2,715.02	\$0.00	\$2,715.02
2	10/5/2020		\$297.22	\$0.00	\$145.39	\$442.61	\$0.00	\$442.61
3	1/4/2021		\$297.22	\$0.00	\$192.30	\$489.52	\$0.00	\$489.52
4	3/1/2021		\$297.22	\$16.00	\$245.16	\$558.38	\$0.00	\$558.38
Total			\$3,502.26	\$16.00	\$687.27	\$4,205.53	\$0.00	\$4,205.53

<https://carsoncitynv.devnetwedge.com/parcel/view/01044311/2020#PaymentHistory>

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FRED0004

FRED000293  
APEN000092

PA000838



4/14/2021

Parcel Details for 01044311

Payment History									
Fiscal Year		Total Due		Total Paid		Amount Unpaid		Date Paid	
(2020 - 2021)		\$4,205.53		\$0.00		\$4,205.53			
Installment	Paid By	Date Due	Date Paid	Tax Billed	Cost Billed	Penalty/Interest	Total Due	Amount Paid	Total Unpaid
1		8/17/2020		\$2,610.60	\$0.00	\$104.42	\$2,715.02	\$0.00	\$2,715.02
2		10/5/2020		\$297.22	\$0.00	\$145.39	\$442.61	\$0.00	\$442.61
3		1/4/2021		\$297.22	\$0.00	\$192.30	\$489.52	\$0.00	\$489.52
4		3/1/2021		\$297.22	\$16.00	\$245.16	\$558.38	\$0.00	\$558.38
(2019 - 2020)		\$3,373.06		\$0.00		\$3,373.06			
Installment	Paid By	Date Due	Date Paid	Tax Billed	Cost Billed	Penalty/Interest	Total Due	Amount Paid	Total Unpaid
1		8/19/2019		\$1,769.34	\$0.00	\$70.77	\$1,840.11	\$0.00	\$1,840.11
2		10/7/2019		\$286.00	\$0.00	\$102.77	\$388.77	\$0.00	\$388.77
3		1/6/2020		\$286.00	\$0.00	\$140.48	\$426.48	\$0.00	\$426.48
4		3/2/2020		\$286.00	\$5.00	\$426.70	\$717.70	\$0.00	\$717.70
(2018 - 2019)		\$3,318.59		\$0.00		\$3,318.59			
Installment	Paid By	Date Due	Date Paid	Tax Billed	Cost Billed	Penalty/Interest	Total Due	Amount Paid	Total Unpaid
1		8/20/2018		\$1,581.03	\$0.00	\$63.24	\$1,644.27	\$0.00	\$1,644.27
2		10/1/2018		\$273.00	\$0.00	\$92.70	\$365.70	\$0.00	\$365.70
3		1/7/2019		\$273.00	\$0.00	\$127.62	\$400.62	\$0.00	\$400.62
4		3/4/2019		\$273.00	\$0.00	\$835.00	\$908.00	\$0.00	\$908.00
(2017 - 2018)		\$1,468.56		\$1,468.56		\$0.00		5/7/2018	
Installment	Paid By	Date Due	Date Paid	Tax Billed	Cost Billed	Penalty/Interest	Total Due	Amount Paid	Total Unpaid
1	FRED, SYLVIA 'CC'	8/21/2017	8/28/2017	\$605.85	\$0.00	\$0.00	\$605.85	\$605.85	\$0.00
2	FRED, SYLVIA	10/2/2017	5/1/2018	\$262.00	\$0.00	\$6.71	\$268.71	\$268.71	\$0.00
3	FRED, SYLVIA	1/1/2018	5/1/2018	\$262.00	\$0.00	\$21.49	\$283.49	\$283.49	\$0.00
4	FRED, SYLVIA 'CC'	3/5/2018	5/7/2018	\$262.00	\$0.00	\$48.51	\$310.51	\$310.51	\$0.00
(2016 - 2017)		\$1,061.30		\$1,061.30		\$0.00		11/14/2016	
Installment	Paid By	Date Due	Date Paid	Tax Billed	Cost Billed	Penalty/Interest	Total Due	Amount Paid	Total Unpaid
1	FRED, SYLVIA	8/15/2016	11/14/2016	\$257.34	\$0.00	\$10.29	\$267.63	\$267.63	\$0.00
2	FRED, SYLVIA	10/3/2016	11/14/2016	\$256.00	\$0.00	\$25.67	\$281.67	\$281.67	\$0.00
3	FRED, SYLVIA	1/2/2017	11/14/2016	\$256.00	\$0.00	\$0.00	\$256.00	\$256.00	\$0.00
4	FRED, SYLVIA	3/6/2017	11/14/2016	\$256.00	\$0.00	\$0.00	\$256.00	\$256.00	\$0.00
(2015 - 2016)		\$1,096.38		\$1,096.38		\$0.00		4/4/2016	

<https://carsoncitynv.devnetwedge.com/parcel/view/01044311/2020/#PaymentHistory>

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FRED0005

FRED000294  
APEN000093

PA000839

4/14/2021

Parcel Details for 01044311

Installment	Paid By	Date Due	Date Paid	Tax Billed	Cost Billed	Penalty/Interest	Total Due	Amount Paid	Total Unpaid
1	FRED, SYLVIA	8/17/2015	11/25/2015	\$257.73	\$0.00	\$10.31	\$268.04	\$268.04	\$0.00
2	FRED, SYLVIA	10/5/2015	11/25/2015	\$255.00	\$0.00	\$25.64	\$280.64	\$280.64	\$0.00
3	FRED, SYLVIA	1/4/2016	4/4/2016	\$255.00	\$0.00	\$10.20	\$265.20	\$265.20	\$0.00
4	FRED, SYLVIA	3/7/2016	4/4/2016	\$255.00	\$0.00	\$27.50	\$282.50	\$282.50	\$0.00
☐ (2014 - 2015)			\$1,237.69	\$1,237.69		\$0.00		5/12/2015	
Installment	Paid By	Date Due	Date Paid	Tax Billed	Cost Billed	Penalty/Interest	Total Due	Amount Paid	Total Unpaid
1	FRED, SYLVIA	8/18/2014	5/12/2015	\$325.27	\$0.00	\$13.01	\$338.28	\$338.28	\$0.00
2	FRED, SYLVIA	10/6/2014	5/12/2015	\$247.00	\$0.00	\$28.61	\$275.61	\$275.61	\$0.00
3	FRED, SYLVIA	1/5/2015	5/12/2015	\$247.00	\$0.00	\$49.16	\$296.16	\$296.16	\$0.00
4	FRED, SYLVIA	3/2/2015	5/12/2015	\$247.00	\$0.00	\$80.64	\$327.64	\$327.64	\$0.00
☐ (2013 - 2014)			\$995.90	\$995.90		\$0.00		1/7/2014	
Installment	Paid By	Date Due	Date Paid	Tax Billed	Cost Billed	Penalty/Interest	Total Due	Amount Paid	Total Unpaid
1		8/19/2013	1/7/2014	\$962.11	\$0.00	\$33.79	\$995.90	\$995.90	\$0.00
☐ (2012 - 2013)			\$1,293.75	\$1,293.75		\$0.00		4/5/2013	
Installment	Paid By	Date Due	Date Paid	Tax Billed	Cost Billed	Penalty/Interest	Total Due	Amount Paid	Total Unpaid
1		8/20/2012	4/5/2013	\$1,123.08	\$0.00	\$170.67	\$1,293.75	\$1,293.75	\$0.00
☐ (2011 - 2012)			\$1,689.03	\$1,689.03		\$0.00		7/22/2011	
☐ (2010 - 2011)			\$1,291.58	\$1,291.58		\$0.00		9/21/2010	
☐ (2009 - 2010)			\$1,125.45	\$1,125.45		\$0.00		9/28/2009	
☐ (2008 - 2009)			\$1,092.68	\$1,092.68		\$0.00		2/25/2009	
☐ (2007 - 2008)			\$1,060.84	\$1,060.84		\$0.00		9/28/2007	
☐ (2006 - 2007)			\$1,029.93	\$1,029.93		\$0.00		3/2/2007	
☐ (2005 - 2006)			\$999.93	\$999.93		\$0.00		8/2/2005	
☐ (2004 - 2005)			\$996.80	\$996.80		\$0.00		8/12/2004	
☐ (2003 - 2004)			\$839.76	\$839.76		\$0.00		9/2/2003	
☐ (2002 - 2003)			\$639.13	\$639.13		\$0.00		3/6/2003	
☐ (2001 - 2002)			\$830.15	\$830.15		\$0.00		12/18/2001	
☐ (2000 - 2001)			\$820.30	\$820.30		\$0.00		9/28/2000	
☐ (1999 - 2000)			\$889.23	\$889.23		\$0.00		7/10/2000	
☐ (1998 - 1999)			\$860.79	\$860.79		\$0.00		4/7/1999	
☐ (1997 - 1998)			\$794.41	\$794.41		\$0.00		4/1/1998	
☐ (1996 - 1997)			\$774.46	\$774.46		\$0.00		12/5/1996	
Collapse									

<https://carsoncitynv.devnetwedge.com/parcel/view/01044311/2020#PaymentHistory>

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FRED0006

 FRED000295  
 APEN000094

PA000840

4/14/2021

Parcel Details for 01044311

Related Names	
<b>CURRENT MAIL TO FOR 2021 (2021 - 2022)</b> Name FRED, SYLVIA Mailing PO BOX 1150 Address RED LAKE, MN, 56671-0000 Status Current Account	<b>CURRENT OWNER FOR 2021 (2021 - 2022)</b> Name FRED, SYLVIA Mailing Address Status Current Account
<b>OWNER FOR 2020 (2020 - 2021)</b> Name FRED, SYLVIA Mailing PO BOX 1150 Address RED LAKE, MN, 56671-0000 Status Current Account	

Structure 1 of 2

Structure 2 of 2

Sales History						
Year	Document #	Document Type	Sale Date	Sold By	Sold To	Price
2012	421984	GRANT DEED	5/4/2012	FEDERAL HOME LOAN MORTGAGE CORP	ELBIN FRED	\$69,900
1990	097615		3/23/1990		IRVAN E & WANDA L SULLIVAN	\$69,950

No Genealogy Information

<https://carsoncitynv.devnetwedge.com/parcel/view/01044311/2020#PaymentHistory>

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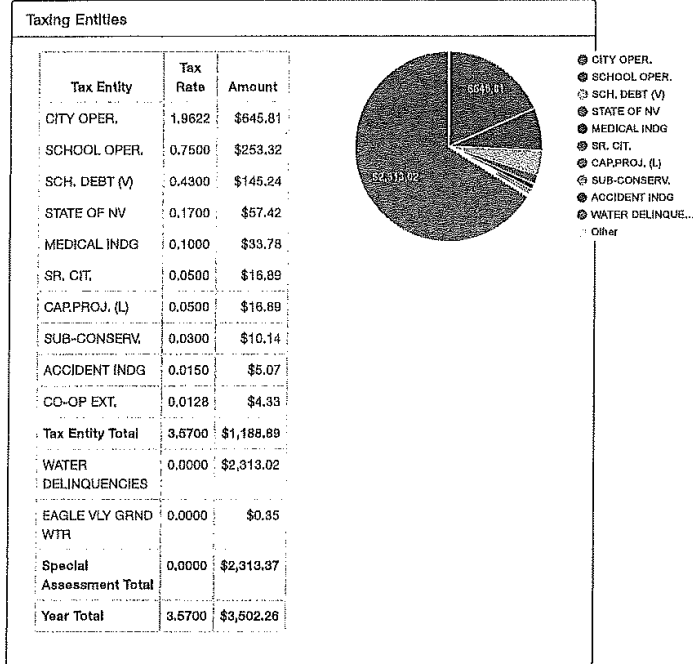
FRED0007

FRED000296  
APEN000095

PA000841

4/14/2021

Parcel Details for 01044311



<https://carsncitynv.devnetwedge.com/parcel/view/01044311/2020#PaymentHistory1>

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FRED0008

FRED000297  
APEN000096

PA000842

# Exhibit 15

USB Drive Filed with the Court Clerk

APEN000097

PA000844

**DECLARATION OF SYLVIA FRED**

I, SYLVIA FRED, being first duly sworn, deposes and says:

1. I declare that I am a joint tenant owner of the property located at 3587 Desatoya Drive, Carson City, Nevada 89101, and am a Claimant/Counterclaimant named in this litigation.

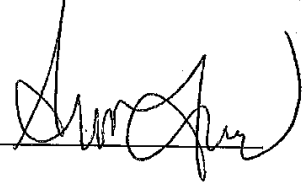
2. This Declaration is made of my own personal knowledge except when stated on information and belief, and as to those matters, I believe them to be true, and I am competent to testify thereto if called on to do so.

3. On March 14, 2022, I took the video of the inside of the property located at 3587 Desatoya Drive, Carson City, Nevada 89101 Bates labeled FRED0232 and this video is true and correct and has not been altered in any way.

4. I declare under the penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

DATED this 9th day of November, 2022.

/s/  
Sylvia Fred





**Carson City Utility Billing / Admin Office**  
 3505 Butti Way  
 Carson City, Nevada 89701  
 (775) 887-2355, ext. 2 / Payment Inq: (775) 887-2092  
 Utilitybilling@carson.org

**Utility Bill**  
 CUSTOMER COPY

PLEASE RETURN BOTTOM PORTION WITH PAYMENT

CUSTOMER NAME	ACCOUNT NUMBER	PARCEL ID	SERVICE LOCATION
FRED, ELVIN L	320645 - 30680	01044311	3587 DESATOYA DR

BILL NUMBER	BILL DATE	CUSTOMER NUMBER	ACCOUNT TYPE	DUE DATE
10112738	02/10/2022	320645	RES - SINGLE FAMILY	03/02/2022

DESCRIPTION	METER NUMBER	READ CODE	PREVIOUS READ DATE	CURRENT READ DATE	PREVIOUS READING	CURRENT READING	USAGE	RATE	CHARGE AMOUNT
60									
WATER BASE CHARGE			01/04/2022	02/02/2022					\$29.06
WATER USAGE	00016981815	A	01/04/2022	02/02/2022	726	726	0	SFR	\$0.00
WATER RIGHT OF WAY TOLL			01/04/2022	02/02/2022					\$0.29
SEWER BASE CHARGE			01/04/2022	02/02/2022					\$43.34
SEWER RIGHT OF WAY TOLL			01/04/2022	02/02/2022					\$0.43
STORMWATER			01/04/2022	02/02/2022					\$6.29

CONSUMPTION HISTORY

READ CODE  
 A = Actual  
 E = Estimate  
 F = Final

Previous Balance	\$703.67
Total Current Billing	\$79.41
Adjustments	\$0.00
Interest	\$0.00
Discount	\$0.00
Less Payments Received	\$0.00
Penalties	\$0.00
<b>Total Amount Due</b>	<b>\$783.08</b>

0 CURR 01/22 11/21 11/21 09/21 09/21 07/21 07/21 06/21 05/21 04/21 03/21

**Carson City Utility Billing / Admin Office**  
 3505 Butti Way  
 Carson City, Nevada 89701  
 (775) 887-2355, ext. 2 / Payment Inq: (775) 887-2092  
 Utilitybilling@carson.org

✂ DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT ✂

**Utility Bill**  
 REMIT PORTION

☐ Donate \$\_\_\_\_\_ to the Utility Rate Assistance Program

SERVICE LOCATION	BILL NUMBER	ACCOUNT NUMBER	DUE DATE	TOTAL DUE
3587 DESATOYA DR	10112738	320645 - 30680	03/02/2022	\$783.08

FRED, ELVIN L  
 C/O SYLVIA, FRED  
 PO BOX 1150  
 REDLAKE, MN 56671-1150


MAKE CHECKS PAYABLE AND REMIT TO:  
 Carson City Utilities  
 201 North Carson Street, #5  
 Carson City, NV 89701

00006042022210112738900000783084

FRED0247  
 APEN000099

PA000846





From: **Sylvia Fred** <[sylviafred521@gmail.com](mailto:sylviafred521@gmail.com)>  
Date: Thu, Jul 18, 2019 at 4:12 PM  
Subject: Re: Desatoya Residence  
To: Coley McCann <[cmccann@dps.state.nv.us](mailto:cmccann@dps.state.nv.us)>

Thank you, I will do that.

On Thu, Jul 18, 2019 at 4:09 PM Coley McCann <[cmccann@dps.state.nv.us](mailto:cmccann@dps.state.nv.us)> wrote:  
Your best bet to get that would be to call Carson City Justice Court.

Coley McCann, Sergeant  
Nevada Department of Public Safety  
Investigation Division  
Tri-NET Narcotic Task Force  
775-684-7431

On Jul 18, 2019, at 12:14 PM, Sylvia Fred <[sylviafred521@gmail.com](mailto:sylviafred521@gmail.com)> wrote:

Thank you. Can you please provide me a copy of the original court order before the default judgment order. Thank you again for your attention and timely response in this matter.

On Thursday, July 18, 2019, Coley McCann <[cmccann@dps.state.nv.us](mailto:cmccann@dps.state.nv.us)> wrote:

Thank you for the reminder. This is the Default Judgement that we discussed.

Coley McCann, Sergeant  
DPS – Investigation Division  
Tri-NET Narcotic Task Force  
Office: (775) 684-7431

FRED0234  
APEN000100  
PA000847

Fax: (775) 684-7450

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**From:** Sylvia Fred [mailto:[sylviafred521@gmail.com](mailto:sylviafred521@gmail.com)]  
**Sent:** Thursday, July 18, 2019 9:04 AM  
**To:** Coley McCann  
**Subject:** Re: Desatoya Residence

Thank you for the update. I was still awaiting more information from you? You stated in our phone conversation last week that you was going to email me all the information (signed Court order from District Court, dates, etc.)?

Thank you again in advanced for your attention to this matter.

Sylvia Fred

On Thu, Jul 18, 2019 at 10:31 AM Coley McCann  
<[cmccann@dps.state.nv.us](mailto:cmccann@dps.state.nv.us)> wrote:

Sylvia,

This is the form that we discussed last week that was filed in Carson City Justice Court yesterday.

FRED0235  
APEN000101  
PA000848

Thank you,

Coley McCann, Sergeant

DPS – Investigation Division

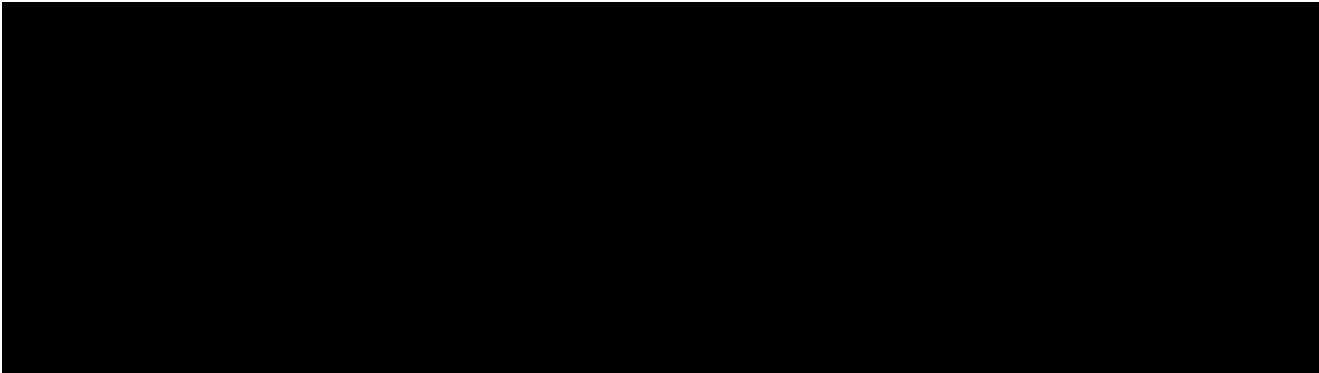
Tri-NET Narcotic Task Force

Office: (775) 684-7431

Fax: (775) 684-7450

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FRED0236  
APEN000102  
PA000849



From: **Sylvia Fred** <[sylviafred521@gmail.com](mailto:sylviafred521@gmail.com)>  
Date: Fri, Aug 2, 2019 at 11:04 AM  
Subject: Re: 20150428 Not of Entry of Order.pdf  
To: [Ddfljbrown@gmail.com](mailto:Ddfljbrown@gmail.com) <[Ddfljbrown@gmail.com](mailto:Ddfljbrown@gmail.com)>

Coley,

I am unable to make it to court today, due to a funeral. However, I would like they record to reflect that I am the legal owner of said property (3587 Desatoya Drive, Carson City, NV). I have never received any notifications of court appearance regarding this property, except most recently by you via email, after judgment in the matter. I am requesting that you please relay this message to the honorable judge today. Also, if I could please have adequate time to make it down there, I would like the opportunity to find out more details on this matter. Would you please follow up with me on this matter after court. Thank you for your time and attention.

Respectfully,  
Sylvia Fred  
218-553-0199

On Thursday, July 18, 2019, Sylvia Fred <[sylviafred521@gmail.com](mailto:sylviafred521@gmail.com)> wrote:

----- Forwarded message -----

From: **Coley McCann** <[cmccann@dps.state.nv.us](mailto:cmccann@dps.state.nv.us)>  
Date: Thursday, July 18, 2019  
Subject: Fwd: 20150428 Not of Entry of Order.pdf  
To: "[sylviafred521@gmail.com](mailto:sylviafred521@gmail.com)" <[sylviafred521@gmail.com](mailto:sylviafred521@gmail.com)>

This may be what you're looking for.

Coley McCann, Sergeant  
Nevada Department of Public Safety  
Investigation Division  
Tri-NET Narcotic Task Force  
775-684-7431

Begin forwarded message:

FRED0237  
APEN000103  
PA000850

**From:** Rebekah Jenkins <[rjenkins@dps.state.nv.us](mailto:rjenkins@dps.state.nv.us)>  
**Date:** July 18, 2019 at 4:32:17 PM PDT  
**To:** Coley McCann <[cmccann@dps.state.nv.us](mailto:cmccann@dps.state.nv.us)>  
**Subject:** 20150428 Not of Entry of Order.pdf

This?

FRED0238

APEN000104

PA000851

**DECLARATION OF ELVIN FRED**

I, Elvin Fred, under penalty of perjury, state as follows:

1. I declare that I am a Joint Tenant owner of the real property located at 3587 Desatoya Drive, Carson City, Nevada 89701 ("Home"), which is the property at issue in this litigation.

2. I make this declaration in support of Claimant Sylvia Fred's ("Sylvia's") Motion for Partial Summary Judgment Seeking a Declaration that Nevada's Civil Forfeiture Laws Violate Due Process ("Motion").

3. This declaration is made of my own knowledge except when stated on information and belief, and as to these matters, I believe them to be true. I am over the age of eighteen years and therefore am competent to testify thereto if called on to do so.

4. On January 30, 2009, my civil rights were violated, and I later brought a civil action against the County of Carson City, various Sheriff's deputies, and the Carson Nugget, Inc. *See* Case No.: 3:11-cv-00064-HDM-VPC (ECF No. 1) (Jan. 28, 2011). In December 2011, the Parties settled the lawsuit, and after compensating my counsel, I obtained \$60,000 from this lawsuit.

5. My family and I had been living at the trailer park off US Highway 50, and we wanted to use the settlement money to purchase a home. Between March and April 2012, I met with and retained Carol Toohey ("Ms. Toohey") as a real estate agent. I told her that I had \$60,000 to purchase a home.

6. In the search for a property within my price range, Ms. Toohey showed me the property at 3587 Desatoya Drive. The list price was over \$60,000, but it fit my family's needs. I did not seek a mortgage to make up the difference between \$60,000 and the purchase price.

7. Instead, I negotiated with my sister, Sylvia, to obtain the additional funds needed to purchase the Home with cash.

8. Sylvia's only request to me was that the Home is a Fred Family Home available to all of the Fred family needing shelter. I accepted Sylvia's terms.

9. Based on information and belief, between April and May 2012, Sylvia transferred over \$12,000 to me so that I could purchase the Home.

1           10.     Despite Sylvia and I purchasing the Home together, based on the Fred history with  
2 Carson City, Sylvia asked, and I agreed to record the original deed in my name alone. Sylvia only  
3 wanted to take care of her family; she did not want to be involved further with Carson City.

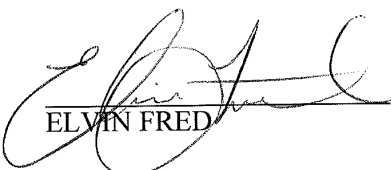
4           11.     Following my arrest in 2015, Sylvia and I realized that our co-ownership  
5 arrangement would no longer be possible. We, therefore, decided to correct the deed to ensure  
6 that Sylvia could pay the property taxes, pay the utilities, and provide all other home ownership  
7 functions that could be performed while I was incarcerated.

8           12.     Therefore, we created a quitclaim deed memorializing our joint tenant ownership  
9 interests in the Home and recorded it.

10          13.     Based on information and belief, between 2015 and 2019, Sylvia paid the property  
11 taxes and utilities and ensured that the Fred Family had shelter.

12          14.     I declare under the penalty of perjury under the laws of the State of Nevada that  
13 the foregoing is true and correct

14  
15                 DATED this 30 day of NOVEMBER 2022.

16  
17                           
18                         ELVIN FRED

**DECLARATION OF SYLVIA FRED**

I, Sylvia Fred, under penalty of perjury, state as follows:

1. I declare that I am a Joint Tenant owner of the real property located at 3587 Desatoya Drive, Carson City, Nevada 89701 ("Home"), which is the property at issue in this litigation.

2. I make this declaration in support of my Motion for Partial Summary Judgment Seeking a Declaration that Nevada's Civil Forfeiture Laws Violate Due Process ("Motion").

3. This declaration is made of my own knowledge except when stated on information and belief, and as to these matters, I believe them to be true. I am over the age of eighteen years and therefore am competent to testify thereto if called on to do so.

4. In 2012, I was in college, working to obtain my B.A. in Native American Studies from Haskell Indian Nations University. I simultaneously worked while I attended school. As a result, I accumulated significant savings to ensure my financial security.

5. Between March and April 2012, my brother Claimant Elvin Fred ("Elvin"), contacted me about his interest in purchasing a home for our family. Based on information and belief, Elvin had recently obtained a civil settlement from the Carson City government after it violated his civil rights.

6. Elvin explained that the Home he was interested in purchasing was more than the settlement funds. Therefore, he asked me to help the family and provide some of my savings to complete the Home purchase in cash without any mortgage or loan.

7. My only request to Elvin to provide him the necessary funds to purchase the Home was that the property be a Fred Family Home available to all of the Fred family needing shelter. Elvin agreed to my terms.

8. On April 9, 2012, as Elvin went under contract to purchase the Home, I withdrew \$10,000 from my savings account at The Baldwin State Bank, Baldwin City, Kansas. FRED0198 is a true and correct receipt of the cashier's check confirming this withdrawal.



1           9.     I then relied on Moneygram to transfer the funds from Kansas to Nevada so Elvin  
2 could purchase the Home. Based on information and belief, the funds had to be sent through  
3 several transfers via Moneygram.

4           10.    Based on information and belief, the first transfer of \$10,000 was not sufficient  
5 and Elvin needed more funds to complete the property purchase. Therefore, on April 17, 2012, I  
6 withdrew an additional \$10,000 from my savings account at The Baldwin State Bank, Baldwin  
7 City, Kansas. FRED0199 is a true and correct receipt of the cashier's check confirming this  
8 withdrawal.

9           11.    I then relied on Moneygram to transfer the funds from Kansas to Nevada so Elvin  
10 could complete the property purchase. Based on information and belief, these funds had to be  
11 sent through several transfers via Moneygram.

12           12.    In 2021, after the Nevada Supreme Court confirmed that I possessed standing and  
13 was a Claimant in these proceedings, I contacted Baldwin State Bank to obtain my bank  
14 records. FRED0228 is a true and correct letter I received in response from the Head  
15 Teller at Baldwin State Bank.

16           13.    Similarly, I requested a transaction history from Moneygram. FRED0226-  
17 FRED0227 is a true and correct email I received from Moneygram in response to this request.

18           14.    Despite Elvin and I purchasing the Home together, based on the Fred Family  
19 history with Carson City, I requested, and Elvin agreed to record the original deed in Elvin's  
20 name alone. I only wanted to take care of my family. I did not want to be involved any further  
21 with Carson City.

22           15.    Following Elvin's arrest in 2015, Elvin and I realized that our co-ownership  
23 arrangement would no longer be possible. We, therefore, decided to correct the deed to add my  
24 name to the property records to ensure that I could pay the property taxes, pay the utilities, and  
25 provide all other home ownership functions that could be performed while Elvin was  
26 incarcerated.

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16. Therefore, we created a quitclaim deed memorializing our joint tenant ownership interests in the Home and recorded it.

17. Between 2015 and 2019, I paid the property taxes and utilities to ensure the Fred Family had shelter. FRED0246-FRED0247 are true and correct copies of delinquent utility bills from 2019 through 2022 when Tri-Net possessed the Home.

18. In August 2015, I traveled to Carson City and attended Elvin's sentencing before the Honorable Judge James Russell. Had I been served with the complaint and summons of the civil forfeiture, I would have stood on my rights and contested the forfeiture.

19. I declare under the penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct

DATED this 6 day of December, 2022.

  
SYLVIA FRED

**DECLARATION OF JOHN A. FORTIN, ESQ.**

I, John A. Fortin, under penalty of perjury, state as follows:

1. I am a resident of the State of the Nevada and an attorney at McDonald Carano LLP pro bono counsel for Sylvia Fred in this litigation.

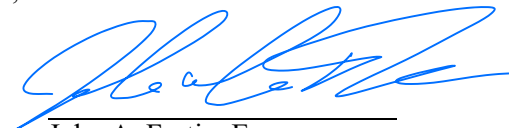
2. I make this declaration in support of Sylvia Fred's Motion for Partial Summary Judgment Seeking a Declaration that Nevada's Civil Forfeiture Laws Violate Due Process ("Motion") and the Appendix filed in support of the Motion. This declaration is made of my own knowledge. I am over the age of eighteen years and therefore am competent to testify if called on to do so.

3. Attached to the Appendix as Exhibits 2, 3, 4, 5, 14, 18, 19 are true and correct copies of filings, exhibits, and other documents taken from prior related litigation. This Court may take judicial notice of such filings in these closely related actions. *See Occhiuto v. Occhiuto*, 97 Nev. 143, 145, 625 P.2d 568, 569 (1981) (discussing close relationship of cases justifies exception to general rule and permitting judicial notice of related prior proceeding); *see also Ferris v. Wynn Resorts Ltd.*, 462 F. Supp. 3d 1101, 1117 (D. Nev. 2020) (taking judicial notice of documents/matters in the public record, several of which are references or excerpted in the complaint). *See generally* NRS 47.130; NRS 47.150.

4. Attached to the Appendix as Exhibits 12 and 13 are true and correct copies of documents that are filed in a public office. This Court may take judicial notice of such filings. *See Whitehead v. Nevada Com'n on Judicial Discipline*, 110 Nev. 380, 419, 873 P.2d 946, 970 (1994) ("[T]he court may appropriately take judicial notice of facts capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned."); NRS 52.085.

5. I declare under the penalty of perjury that the foregoing is true.

DATED this 8th day of December, 2022.



John A. Fortin, Esq.

Copy of Exhibit 18 From

Appendix of Exhibits to Sylvia Fred's Motion  
for Partial Summary Judgment Seeking a  
Declaration That Nevada's Civil Forfeiture  
Laws Violate Due Process

<https://www.dropbox.com/scl/fo/oxw3t4il0qnedumkhv0p0/h?dl=0&rlkey=rje4l7odzixnly0uboox7v1er>

Ryan J. Works, Esq. (NSBN 9224)  
John A. Fortin, Esq. (NSBN 15221)  
McDONALD CARANO LLP  
2300 West Sahara Avenue, Suite 1200  
Las Vegas, Nevada 89102  
Telephone: (702) 873-4100  
[rworks@mcdonaldcarano.com](mailto:rworks@mcdonaldcarano.com)  
[jfortin@mcdonaldcarano.com](mailto:jfortin@mcdonaldcarano.com)

*Pro Bono Counsel for  
Claimant Elvin Fred*

**FIRST JUDICIAL DISTRICT COURT  
CARSON CITY, NEVADA**

In Re:  
3587 Desatoya Drive, Carson City, Nevada  
89701, Carson City, Assessor's Parcel  
Number: 010-443-11.

SYLVIA FRED, an individual,  
Counterclaimant,  
v.  
STATE OF NEVADA ex rel.  
INVESTIGATION DIVISION OF THE  
NEVADA STATE POLICE (TRI-NET  
NARCOTICS TASK FORCE),  
Counterdefendant,

ELVIN FRED, an individual,  
Counterclaimant,  
v.  
STATE OF NEVADA ex rel.  
INVESTIGATION DIVISION OF THE  
NEVADA STATE POLICE (TRI-NET  
NARCOTICS TASK FORCE),  
Counterdefendant,

REC'D & FILED

2022 DEC 15 AM 11:12

AUDREY ROWLATT  
S. BARAJ, CLERK

BY                      DEPUTY

Case No.: 15 OC 00074 1B  
Dept. No.: 2

**ELVIN FRED'S JOINDER UNDER NRCP  
42(a) TO SYLVIA FRED'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT  
SEEKING A DECLARATION THAT  
NEVADA'S CIVIL FORFEITURE LAWS  
VIOLATE DUE PROCESS**

**AND**

**ELVIN FRED'S MOTION FOR PARTIAL  
SUMMARY JUDGMENT SEEKING A  
DECLARATION THAT NEVADA'S CIVIL  
FORFEITURE LAWS VIOLATE DUE  
PROCESS**

Counterclaimant Elvin Fred ("Elvin") moves under NRCP 42(a) to join Counterclaimant Sylvia Fred's ("Sylvia") Motion for Partial Summary Judgment ("Sylvia's Motion or Sylvia's Mot.") against the State of Nevada, *ex rel.* the Investigation Division of the Nevada State Police (Tri-Net Narcotics Task Force), ("Tri-Net"). While neither the First Judicial District Court Rules

1 nor the District Court Rules for the State of Nevada provide a procedure or timeline for joinder, the  
2 Eighth Judicial District Court Rule 2.20(d) provides that “[w]ithin 7 days after service of the  
3 motion, a nonmoving party may file written joinder thereto . . . .” Elvin’s Motion is timely as he is  
4 filing his joinder 4 days after Sylvia filed her Motion. Because Elvin’s Motion relies upon Sylvia’s  
5 Appendix, he does not submit any additional exhibits, and both Sylvia and Elvin moved for relief  
6 under the Due Process Clauses of the federal and Nevada Constitutions, judicial economy and  
7 efficiency will be served by resolving these Motions simultaneously.

8 Elvin also moves on his own grounds under NRCP 56 and asks this Court for a Declaration  
9 that Nevada’s Civil Forfeiture Laws violate Elvin’s Due Process Rights as the federal and Nevada  
10 Constitutions mandate a reasonable doubt burden of proof.

11 This Motion is based on NRCP 56, the Due Process Clause of the United States and Nevada  
12 Constitutions, Nevada’s Civil Forfeiture Laws, the following memorandum of points and  
13 authorities, and the appendix submitted with Sylvia’s Motion, the pleadings, and papers on file  
14 here, and any oral argument requested by the Court and such other matters as the Court may find  
15 appropriate.

16 Dated this 12th day of December 2022.

McDONALD CARANO LLP

17  
18 By: 

19 Ryan J. Works, Esq. (NSBN 9224)  
20 John A. Fortin, Esq. (NSBN 15221)  
21 2300 West Sahara Avenue, Suite 1200  
22 Las Vegas, Nevada 89102  
23 [rworks@mcdonalddcarano.com](mailto:rworks@mcdonalddcarano.com)  
24 [jfortin@mcdonalddcarano.com](mailto:jfortin@mcdonalddcarano.com)

25 *Pro Bono Counsel for*  
26 *Claimant Elvin Fred*  
27  
28

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Elvin's right to a fair and open trial guaranteed to him under the Due Process clauses of the federal and Nevada Constitutions are under attack by Tri-Net as that agency relies on NRS 179.1156 to NRS 179.1205 ("Nevada's Civil Forfeiture Laws") to forfeit the real property located at 3587 Desatoya Drive, Carson City Nevada, 89701 ("Home"). Nevada's Civil Forfeiture Laws, and in particular, NRS. 179.1173(4), only requires Tri-Net to establish its burden of proof to forfeit the Home to a "clear and convincing" standard not "reasonable doubt." This burden of proof violates the history, tradition, and precedent under both the Fourteenth Amendment and Article 1, Section 8 such that NRS 179.1173(4) is clearly unconstitutional. As a result, granting partial summary judgment and declaring Nevada's Civil Forfeiture Laws unconstitutional as a violation of Elvin's Due Process rights are proper.

**II. STATEMENT OF UNDISPUTED MATERIAL FACTS**

A. Elvin and Sylvia Purchase the Home in 2012.

This forfeiture action involves the real property located at 3587 Desatoya Drive, Carson City, Nevada 89701. (Pl.'s First Am. Compl. ("FAC"), March 22, 2022, on file.) In 2012, Sylvia and Elvin purchased the Home in an all-cash sale. (Ex. 20, Elvin Fred Decl. ¶ 10; Ex. 21, Sylvia Fred Decl. ¶ 6; *see also* Ex. 1 (providing Elvin did not obtain a mortgage and the sale was "all cash").)<sup>1</sup> The funds to purchase the Home came from two sources. (Ex. 20, Elvin Fred Decl. ¶¶ 5-9; Ex. 21, Sylvia Fred Decl. ¶¶ 8-10.) Elvin received \$60,000 from a settlement of a civil rights case involving the Carson City Nugget, Carson City, and the Sheriff Deputies for their conduct in January 2009. (Ex. 20, Elvin Fred Decl. ¶¶ 4-5; *see also* Ex. 2-5 Case no. 3:11-CV-0065-HDM-VPC documents.) The remaining balance of the purchase price was provided by Sylvia. (*See, e.g.*, Ex. 20, Elvin Fred Decl. ¶¶ 7-9; Ex. 21, Sylvia Fred Decl. ¶ 8-10; Ex. 6, Carol Toohey Decl. ¶¶ 7-9; *see also* Ex. 7 (Sylvia Fred's Cashier's Checks withdrawing funds for Elvin); Ex. 8 (Moneygram

---

<sup>1</sup> All references to Exhibits in Elvin's Motion are to the appendix submitted by Sylvia. (*See* App'x to Sylvia's Mot., Dec. 8, 2022, on file.)

1 email); Ex. 9 (Baldwin State Bank Letter).)

2 In March or April 2012, Elvin met with and retained Carol Toohey (“Ms. Toohey”) as his  
3 real estate agent. (Ex. 6, Carol Toohey Decl. ¶ 3; Ex. 20, Elvin Fred Decl. ¶¶ 5-6.) Elvin  
4 represented to Ms. Toohey “that he had \$60,000 in funds to purchase a home. The full purchase  
5 price of the home was \$71,099.92” and Mr. Toohey understood “that Elvin obtained the additional  
6 funds from someone else and purchased the home without any need for a mortgage.” (Ex. 6, Carol  
7 Toohey Decl. ¶ 8; *see also* Ex. 10 (detailing the full purchase price including commissions).) As  
8 Elvin made an offer on the Home, he simultaneously reached out to and negotiated with Sylvia to  
9 obtain from her, the remaining funds he needed to complete the purchase in cash.<sup>2</sup> (*See* Ex. 20,  
10 Elvin Fred Decl. ¶¶ 7-8; Ex. 21, Sylvia Fred Decl. ¶¶ 6-7.) On April 9, 2012, Sylvia withdrew  
11 \$10,000 from her savings and relied on Moneygram to transmit the funds to Elvin. (*See* Ex. 20,  
12 Elvin Fred Decl. ¶ 9; Ex. 21, Sylvia Fred Decl. ¶¶ 8-9; *see also* Ex. 7.) Then on April 11, 2012,  
13 Elvin accepted the seller’s counteroffer. (*See* Ex. 11.) Because Sylvia’s first transfer to Elvin did  
14 not provide enough funds to pay for the appraisal, inspections, real estate commissions, and moving  
15 expenses, she withdrew additional funds on April 17, 2012, and transmitted those funds to Elvin  
16 via Moneygram. (*See* Ex. 20, Elvin Fred Decl. ¶ 9; Ex. 21, Sylvia Fred Decl. ¶¶ 10-11; *see also*  
17 Ex. 7.) Elvin closed on the Home in early May 2012.

18 Even though Elvin and Sylvia purchased the Home together with the intent to be co-owners,  
19 the original deed was recorded in Elvin’s name alone. (Ex. 20, Elvin Fred Decl. ¶ 10; Ex. 21, Sylvia  
20 Fred Decl. ¶ 14; *see also* Ex. 12, Grant Deed, May 3, 2012.) This was done because Sylvia simply  
21 wanted to take care of her family but did not want to become entangled with Carson City any further  
22 based on her experiences with the government there as a young adult. (*See* Ex. 20, Elvin Fred Decl.  
23 ¶ 10; Ex. 21, Sylvia Fred Decl. ¶ 14).

---

24  
25 <sup>2</sup> Sylvia’s only request to Elvin at the time of the purchase was that the Home be a Fred  
26 Family Home available to all members of the Fred family needing shelter. (Ex. 20, Elvin Fred  
27 Decl. ¶ 8; Ex. 21, Sylvia Fred Decl. ¶ 7; *see also* Ex. 6, Toohey Decl. ¶ 9 (“During all of these  
28 interactions both Elvin and the rest of the Fred family explained that the 3587 Desatoya Drive  
property would be a family home for the Fred’s.”).) Elvin readily agreed to this condition. (Ex.  
20, Elvin Fred Decl. ¶ 8.)



1 B. In 2015, Sylvia and Elvin got their Affairs in Order Following Elvin's Arrest.

2 Following Elvin's arrest in 2015, and as he negotiated his plea bargain with the State, Elvin  
3 and Sylvia got their affairs in order regarding the Home. (See Ex. 20, Elvin Fred Decl. ¶ 11; Ex.  
4 21, Sylvia Fred Decl. ¶ 15.) This included correcting the deed to ensure Sylvia could pay the  
5 property taxes and the utilities to ensure all other home ownership functions could be performed.  
6 (See Ex. 20, Elvin Fred Decl. ¶¶ 11-12; Ex. 21, Sylvia Fred Decl. ¶¶ 14-19.) To that end, on March  
7 31, 2015, Sylvia and Elvin created a quitclaim deed which was notarized on April 1, 2015, and  
8 recorded on April 6, 2015. (See Ex. 14, Quitclaim deed.) As both Sylvia and Elvin declared, this  
9 deed did not transfer the property's ownership from Elvin to Sylvia—the deed simply memorialized  
10 and confirmed Sylvia and Elvin's prior intent to have Sylvia as a joint tenant owner with Elvin  
11 since each provided funds for the 2012 purchase. (Ex. 20, Elvin Fred Decl. ¶¶ 10-12; Ex. 21, Sylvia  
12 Fred Decl. ¶¶ 14-16.) Because of Elvin's incarceration, Sylvia added her name to the utilities and  
13 regularly paid both the utilities and the property taxes on the Home between 2015 and 2019.<sup>3</sup> (Ex.  
14 21, Sylvia Fred Decl. ¶ 17; Ex. 17 (detailing that both Sylvia and Elvin are named on the Home's  
15 utility bill); Ex. 14, Compl. at Ex. 3 (detailing Sylvia's payment of the property taxes).)

16 C. Tri-Net Begins the Forfeiture Proceedings.

17 On April 1, 2015, Tri-Net began this forfeiture proceeding on the Home and simultaneously  
18 filed and recorded a *lis pendens*. (See Compl., Apr. 1, 2015, on file; Not. of Lis Pendens, Apr. 1,  
19 2015, on file.) After clouding title to the Home, Tri-Net then served Elvin with a summons and a  
20  
21

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22 <sup>3</sup> This stands in distinct contrast to Tri-Net's conduct and complete lack of care for the Home  
23 from 2019 to 2022. (See Ex. 14, Compl., *Fred v. Rasor, et al.*, Case No. 21 RP 00005 1B, ¶ 22,  
24 May 24, 2021, on file (“[D]ue to Tri-Net's failure to pay the property taxes on the property that it  
25 was wrongfully awarded while the litigation and appeal was pending, Sylvia would still lose her  
26 home through the delinquent tax proceedings by Carson City absent intervention by this Court.”);  
27 see also Sylvia's Answer & Countercl. ¶ 33, Jun. 26, 2022, on file (“Upon entering the Home,  
28 Sylvia was shocked to learn that the Home is completely uninhabitable. The moisture and heat the  
Home experienced through the broken windows and the back door being left open for an unknown  
amount of time, left the walls and several ceiling fans covered in black mold. The floors are ruined  
and will need to be completely replaced. The condition of the Home following Tri-Net's occupation  
is incredibly dangerous to the health of Sylvia and her family members.”); see also Ex. 15 (video  
showing the state of the Home upon entry of Sylvia on March 14, 2022 when Tri-Net returned  
possession); Ex. 16 (authenticating the video).)

1 copy of the complaint. (*See* Summons, Apr. 3, 2015, on file.) On April 28, 2015, Tri-Net and Elvin  
2 entered into a stipulation and this Court ordered a stay to the proceedings pending resolution of  
3 Elvin’s criminal proceedings. (*See* Not. of Entry of Ord., Apr. 29, 2015, on file.) Tri-Net later  
4 obtained a default judgment. (*See* Not. of Entry of J., Jul. 10, 2019, on file.) Sylvia argued to the  
5 Nevada Supreme Court that Tri-Net’s amended default judgment was void for failure to properly  
6 notice her of the proceedings and the Nevada Supreme Court agreed. *See In re: 3587 Desatoya*  
7 *Drive*, Case No. 80194, 2021 WL 4847506 (Order of Reversal and Remand, Oct. 15, 2021).

8 Following Sylvia’s victory, the Nevada Supreme Court instructed this Court to vacate Tri-  
9 Net’s default judgment and this Court then instructed Tri-Net to return possession of the Home to  
10 the Freds. *See id.*; (Not. of Entry of Ord. J., March 14, 2022, on file.) When the Freds obtained  
11 possession of the Home and reentered to assess the damage, they were shocked to see the state of  
12 the house because the Home is completely uninhabitable. (*See* Ex. 17.)

13 D. Elvin Moves to Dismiss Tri-Net’s First Amended Complaint Because These  
14 Proceedings Violate Double Jeopardy and the Inalienable Rights Clause.

15 Tri-Net amended its Complaint and Elvin moved to dismiss claiming these proceedings  
16 violate Nevada’s Double Jeopardy Clause and the Inalienable Rights clause. (*See* Pl.’s FAC, Mar.  
17 22, 2022, on file; Elvin Mot. to Dismiss, Jul. 5, 2022, on file; Tri-Net Opp’n, Aug. 26, 2022, on  
18 file; Elvin Reply, Sept. 2, 2022, on file.) After full briefing, this Court denied Elvin’s motion.  
19 (Order, Sept. 21, 2022, on file).<sup>4</sup> Elvin then answered and counterclaimed. (*See* Elvin Verified  
20 Answer & Countercl., Oct. 7, 2022, on file.) Relevant here,

21 Along with monetary damages, Elvin therefore seeks a declaration from this Court  
22 finding that Nevada’s civil forfeiture statutory scheme violates the Due Process  
23 clauses of Nevada and the United States Constitutions by allowing the government to  
24 civilly forfeit property without bearing the burden of proof beyond a reasonable doubt.

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25 <sup>4</sup> Elvin petitioned the Nevada Supreme Court for a Writ of Prohibition and Writ of Mandamus  
26 only on the Double Jeopardy question while offering to supplement his Petition on the inalienable  
27 rights clause violation. *See Fred v. First Jud. Dist. Ct.*, Case No. 85590 (Nov. 2, 2022). Shortly  
28 thereafter, and because Tri-Net *refused* to stipulate, the Nevada Attorneys for Criminal Justice  
("NACJ") moved for leave to file an amicus brief in support of Elvin’s arguments. *See* Mot. for  
Leave to File an Amicus, Case No. 85590 (Nov. 8, 2022). The Nevada Supreme Court later granted  
NACJ’s Motion for Leave. *See* Order, Case No. 85590 (Nov. 28, 2022). The Nevada Supreme  
Court has not yet ordered Tri-Net to answer Elvin’s Petition.

(*Id.* ¶ 71.) Tri-Net answered Elvin’s Counterclaims. (*See* Tri-Net Answer, Dec. 2, 2022, on file.) Elvin now moves for partial summary judgment and a declaration from this Court that Nevada’s Civil Forfeiture Laws violate his Due Process Rights.

### III. LEGAL ARGUMENT

#### A. Elvin’s Joinder to Sylvia’s Motion Will Increase Economy and Efficiency.

NRCP 42(a) provides that “[i]f actions before the court involve a common question of law or fact, the court may (1) join for hearing or trial any or all matters at issue in the actions.” The Nevada Supreme Court has been clear that the “goal” of NRCP 42(a) is to “promot[e]” judicial efficiency in permitting consolidation” of motions and actions. *Nalder v. Eighth Jud. Dist. Ct.*, 136 Nev. 200, 207, 462 P.3d 677, 685 (2020). The First Judicial District Court and the District Court Rules for the State of Nevada are silent on a non-moving party’s authority to join a motion or argument presented by another party in civil litigation. The Eighth Judicial District Court Rule 2.20(d) provides that “[w]ithin 7 days after service of the motion, a nonmoving party may file written joinder thereto . . . .”

Elvin’s joinder will unquestionably lower the costs and burdens on the Parties. As a threshold matter, Elvin moved to join Sylvia’s motion well within the 7-day time period imposed under Rule 2.20(d) and therefore, his request is timely. Further promoting economy and efficiency, both Elvin and Sylvia’s Motions center around the same facts *and* law as each asks this Court for partial summary judgment and a declaration regarding their respective Due Process rights under the Nevada and United States Constitutions. *See* NRCP 42(a). Dispositive on this point—Elvin is not providing any new exhibits and is strictly relying on Sylvia’s Appendix and the facts already presented to this Court. Finally, regardless of the disposition of Elvin and Sylvia’s Motions, joinder of these two motions will reduce the costs and burdens on any appeal that occurs as a result as both Elvin and Sylvia will jointly notice (or defend) any appeal together—furthering economy and efficiency. *See* NRCP 54(b) (“[T]he court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties. . . .”); *see also* NRAP 3(b)(1) (“When two or more parties are entitled to appeal from a district court judgment or order, and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single

1 appellant.”).

2 Elvin therefore submits that his joinder of Sylvia’s Motion is proper and should be permitted  
3 to ensure judicial economy and efficiency in resolving both Elvin and Sylvia’s counterclaims  
4 expeditiously and while minimizing the costs on the parties.

5 B. Legal Standard for Summary Judgment

6 A party seeking to recover upon a claim may move for summary judgment in his favor upon  
7 all or any part of that claim. NRCp 56(a); *see also* NRS 30.040(1) (providing that “[a]ny  
8 person . . . whose rights, status, or legal relations are affected by a statute . . . may have determined  
9 any question of construction or validity under the . . . statute . . . and obtain a declaration of rights,  
10 status, or other legal relations thereunder.”).

11 “Summary judgment is appropriate and shall be rendered forth-with when the pleadings and  
12 other evidence on file demonstrate that no genuine issue as to any material fact remains and that  
13 the moving party is entitled judgment as a matter of law.” *Wood v. Safeway*, 121 Nev. 724, 729  
14 (2005) (cleaned up). “The substantive law controls which factual disputes are material and will  
15 preclude summary judgment; other factual disputes are irrelevant.” *Id.* at 731. When reviewing a  
16 motion for summary judgment, this Court must review the arguments, “the evidence, and any  
17 reasonable inferences drawn from it” in the “light most favorable to the nonmoving party.” *Id.* at  
18 729. “While the pleadings and other proof must be construed in a light most favorable to the  
19 nonmoving party, that party bears the burden to do more than simply show that there is some  
20 metaphysical doubt as to the operative facts” and the nonmoving party “is not entitled to build a  
21 case on the gossamer threads of whimsy, speculation, and conjecture.” *Id.* at 732 (cleaned up).

22 Because Elvin seeks a declaration that Nevada’s civil forfeiture laws are unconstitutional,  
23 Elvin must make a “clear showing of invalidity” of the law’s infirmity. *Silvar v. Eighth Jud. Dist.*  
24 *Ct.*, 122 Nev. 289, 292, 129 P.3d 682, 684 (2006). “Constitutional interpretation utilizes the same  
25 rules and procedures as statutory interpretation.” *Educ. Freedom PAC v. Reid*, 512 P.3d 296, 302  
26 (2022) (cleaned up). “This court will first look to the plain meaning of the constitutional provision,  
27 and only if it is ambiguous will this court look to the history, public policy, and reason for the  
28 provision.” *Id.* “A constitutional provision is ambiguous if it is susceptible to two or more

reasonable, but inconsistent interpretations.” *Id.*

“[R]ecent precedents have established that [Nevada courts must] consider first and foremost the original public understanding of constitutional provisions, not some abstract purpose underlying them.” *Thomas v. Nev. Yellow Cab Corp.*, 130 Nev. 484, 490, 327 P.3d 518, 522 (2014). The United States Supreme Court imposes the same strictures for reviewing the federal Constitution. *See generally District of Columbia v. Heller*, 554 U.S. 570 (2008) (interpreting the United States Constitution seeking the original public meaning of the Second Amendment for the federal government); *McDonald v. Chicago*, 561 U.S. 742 (2010) (interpreting the original public meaning of the Second Amendment and incorporating that clause to the States through the Due Process Clause); *Timbs v. Indiana*, 586 U.S. \_\_\_, 139 S.Ct. 682 (2019) (evaluating the original public meaning of the Eighth Amendment’s Excessive Fines clause and incorporating that clause to the States through the Due Process Clause). In sum, “[w]hen interpreting a constitutional provision, [Nevada courts’] ultimate goal is to determine the public understanding of a legal text leading up to and in the period after its enactment or ratification.” *See also Legislature of State v. Settlemeier*, 137 Nev. 231, 235, 486 P.3d 1276, 1280 (2021) (cleaned up).

B. Nevada’s Unconstitutional Burden of Proof.

“All right, title, and interest in property subject to forfeiture vests in the plaintiff: (a) In the case of property used or intended for use to facilitate the commission or attempted commission of any felony, when the property is so used or intended for such use; (b) In the case of property otherwise subject to forfeiture, when the event giving rise to the forfeiture occurs.”<sup>5</sup> NRS 179.1169(1). “The plaintiff in a proceeding for forfeiture must establish by clear and convincing evidence that the property is subject to forfeiture.” NRS 179.1173(4). “In a proceeding for forfeiture, the rule of law that forfeitures are not favored does not apply.” NRS 179.1173(5). “The

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<sup>5</sup> See NRS 179.1158 (“‘Claimant’ means any person who claims to have: (1) Any right, title or interest of record in the property or proceeds subject to forfeiture; (2) Any community property interest in the property or proceeds; or (3) Had possession of the property or proceeds at the time of the seizure thereof by the Plaintiff.”); NRS 179.1159 (“‘Plaintiff’ means the law enforcement agency which has commenced a proceeding for forfeiture.”).

1 plaintiff is not required to plead or prove that a claimant has been charged with or convicted of any  
2 criminal offense. If proof of such a conviction is made, and it is shown that the judgment of  
3 conviction has become final, the proof is, as against any claimant, conclusive evidence of all facts  
4 necessary to sustain the conviction.” NRS 179.1173(6).

5 C. The History, Tradition, and Precedent both on the Federal Level and in Nevada  
6 Require Proof Beyond a “Reasonable Doubt” Not “Clear and Convincing.”

7 “This system—where police can seize property with limited judicial oversight and retain it  
8 for their own use—has led to egregious and well-chronicled abuses.” *Leonard v. Texas*, 137 S.Ct.  
9 847, 848 (2017) (Thomas, J. in respect to denying certiorari). This Court need not look very far to  
10 see egregious abuses as Tri-Net has inflicted significant harms on the Fred’s through its deployment  
11 of Nevada’s Civil Forfeiture Laws over the last seven years. *See supra* n.3; (*see also* Ex. 14 Compl.,  
12 *Fred v. Rasor, et al.*, Case No. 21 RP 00005 1B, ¶ 22, May 24, 2021 (Tri-Net failed to pay the  
13 property taxes and the Home is threatened with a delinquent tax foreclosure); Ex. 15 (video showing  
14 the destruction of the Home upon entry of Sylvia on March 14, 2022, when Tri-Net returned  
15 possession); Ex. 16 (authenticating video).)

16 Moving past Tri-Net’s destruction of the Fred Family home, since the Nevada Legislature  
17 imposed mandatory reporting requirements in 2015, Nevada law enforcement agencies have  
18 obtained over \$100 million worth of Nevadans’ property through forfeitures. *See*  
19 [https://ag.nv.gov/Hot\\_Topics/Annual\\_Forfeiture\\_Reporting/](https://ag.nv.gov/Hot_Topics/Annual_Forfeiture_Reporting/) (hereinafter “Forfeiture Profits”)  
20 (providing that Nevada law enforcement has obtain over \$28 million from forfeitures relying on  
21 Nevada Civil Forfeiture Laws); *see also* Leslie Knepper, et al., Policing for Profit: The Abuse of  
22 Civil Asset Forfeiture, 117 (3d ed. 2020) (explaining that the median value for all forfeitures in  
23 Nevada “were worth less than \$908”); *see id.* at 118 (“Between 2000 and 2019, [Nevada law  
24 enforcement agencies] generated an additional \$73 million from federal equitable sharing, for a  
25 total of \$85 million in forfeiture revenue.”).<sup>6</sup> Whether a forfeiture occurs under Nevada’s Civil  
26

27  
28 <sup>6</sup> The federal equitable sharing program is based on the Comprehensive Crime Control Act of 1984. *See* Pub. L. 98-473, 98 Stat. 1976. The law allows state and local law enforcement to transfer

1 Forfeiture Laws or through the federal equitable sharing program, State and local law enforcement  
2 retain all of these profits for their own uses. *See* NRS 179.1187. Only if those entities do not spend  
3 the profits within a year will any of these profits be provided to local school districts. *See* NRS  
4 179.1187(2)(d). In other words, this forfeiture provides a lucrative incentive to Tri-Net. *See United*  
5 *States v. James Daniel Good Real Prop.*, 510 U.S. 43, 55-56 (1993) (explaining that the  
6 Constitution’s protection of fundamental rights “is of particular importance here, where the  
7 Government has a direct pecuniary interest in the outcome of the proceeding”); *Harmelin v.*  
8 *Michigan*, 501 U.S. 957, 979, n. 9 (1991) (“[I]t makes sense to scrutinize governmental action more  
9 closely when the State stands to benefit.”).

10 But analyzing Tri-Net’s conduct here with regards to this lucrative pecuniary benefit, Tri-  
11 Net launched these forfeiture proceedings in 2015 shortly after the Legislature mandated reporting  
12 requirements under NRS 179.1205. Between July 2019 through March 2022, Tri-Net unlawfully  
13 seized and forfeited the Home under dispute here. A review of the Attorney General’s reporting  
14 for Tri-Net reveals that Tri-Net *never* (nor did any department of the Nevada State Police, the  
15 Carson City’s Sheriff’s Office, nor the Douglas County Sheriff’s Office—the entities constituting  
16 Tri-Net) reported the Home as seized and/or forfeited as required by law. *See* Forfeiture Profits.  
17 Thus, while the actual amount forfeited by Nevada law enforcement is likely wildly inaccurate for  
18 several reasons, Elvin can affirmatively represent that the Attorney General’s reporting is at least  
19 deficient as to the fair market value of the Home because of Tri-Net’s non-compliance with NRS  
20 179.1205. *See id.*

21 Put more simply, the “egregious and well-chronicled abuses” that Justice Thomas recounted  
22 over a decade ago are epitomized by Tri-Net’s conduct in this case. *Leonard*, 137 S.Ct. at 848. As  
23 a result, ensuring the Constitution’s protections and requiring proof beyond a reasonable doubt is  
24 proper because “a criminal procedure violates due process if ‘it offends some principle of justice  
25 so rooted in the traditions and conscience of our people as to be ranked as fundamental.’” *Nelson*

26  
27  
28 property to federal agencies to allow those agencies to forfeit property. *See id.* Once the property  
is forfeited, state and local law enforcement receive 80% of the profits. *See id.*



1 v. *Colorado*, 581 U.S. \_\_\_, \_\_\_, 137 S.Ct. 1249, 1256 n.9 (2017) (quoting *Medina v. Calif.*, 505  
2 U.S. 437, 445 (1992)). As shown below, Nevada’s clear and convincing burden of proof violates  
3 history, tradition, and precedent under both the United States and Nevada Constitutions. See David  
4 Benjamin Ross, Comment and Note, *Civil Forfeiture: A Fiction That Offends Due Process*, 13  
5 Regent U.L. Rev. 259, 263 (2001) (“Because civil asset forfeiture challenges an individual’s  
6 fundamental constitutional right to own property and remain secure in its possession, civil asset  
7 forfeiture should be highly scrutinized to ensure that it conforms with the traditional concepts of  
8 fair play and justice.”).

9 1. *Proof Beyond a Reasonable Doubt was Required in the Early Years of the*  
10 *Republic*

11 At America’s founding, forfeitures of property were a tool for enforcing revenue collection,  
12 specifically “the customs duties imposed on goods imported into the United States.” Kevin Arlyck,  
13 *The Founders’ Forfeiture*, 119 Colum. L. Rev. 1449, 1466 (2019) (explaining that “[t]hese duties  
14 were the national government’s lifeblood” and that for the period studied, “receipts from import  
15 duties constituted the lion’s share of the federal government’s total revenue”). While United States  
16 Supreme Court precedent confirms that the Fifth Amendment’s Double Jeopardy clause is not  
17 offended by a second, successive civil forfeiture proceeding following a criminal proceeding,  
18 *United States v. Ursery*, 518 U.S. 267 (1996), the federal Due Process Clauses (either the Fifth or  
19 Fourteenth Amendments) are offended by anything less than a reasonable doubt burden of proof.

20 For example, founding era precedents imposed a reasonable doubt burden of proof prior to  
21 forfeitures of property under the Fifth Amendment’s Due Process Clause. See *United States v. Brig*  
22 *Burdett*, 34 U.S. 682, 690 (1835) (“The object of this prosecution was to enforce a forfeiture of the  
23 vessel and all that pertains to her, for a violation of a revenue law. The prosecution was a highly  
24 penal one, and the penalty should not be inflicted unless the infractions of the law shall be  
25 established beyond a reasonable doubt.”). Post-reconstruction precedent likewise supports a  
26 reasonable doubt burden of proof as well. See *Boyd v. United States*, 116 U.S. 616, 633-34 (1886)  
27 (“[P]roceedings instituted for the purpose of declaring the forfeiture of a man’s property by reason  
28 of offenses committed by him, though they may be civil in form, are in their nature criminal”); see



1 *Timbs*, 139 S.Ct. at 689 (explaining that “when a Bill of Rights protection is incorporated, the  
2 protection applies ‘identically to both the Federal Government and the States.’” (quoting *McDonald*  
3 561 U.S. at 766 n.14)).

4 Accordingly, and quite simply, NRS 179.1173(4) violates the history, tradition, and  
5 precedent of the United States Constitution. Elvin, therefore, asks this Court to grant him partial  
6 summary judgment and declare that Nevada’s Civil Forfeiture Laws violates the Fourteenth  
7 Amendment’s Due Process clause.

8 2. *Proof Beyond a Reasonable Doubt was Required From Nevada’s Founding*  
9 *to 1987.*

10 Nevada’s history and tradition of imposing a reasonable doubt burden of proof does not  
11 deviate from the Fourteenth Amendment. Nevada law “implicitly recognized the quasi-criminal  
12 nature of forfeiture actions” and required “proof beyond a reasonable doubt” so that “the innocent  
13 may not be permanently deprived of their property.” *A 1983 Volkswagen v. Cnty. Of Washoe*, 101  
14 Nev. 222, 224, 699 P.2d 108, 109 (1985). This is because the history and tradition in Nevada “d[id]  
15 not favor forfeitures” and district courts were required to “strictly construe[ ]” statutes authorizing  
16 forfeitures and only enforce them ““when facts clearly justify”” the loss of property rights. *One*  
17 *1978 Chevrolet Van v. Churchill Cnty.* 97 Nev. 510, 512, 634 P.2d 1208, 1209 (1981) (quoting *Ind.*  
18 *Nev. v. Gold Hills*, 35 Nev. 158, 166, 126 P. 965, 967 (1912)).

19 As Elvin explained before (*see* Elvin Mot. to Dismiss, Jul. 15, 2022, on file; Elvin Reply,  
20 Sept. 2, 2022, on file,) this is because Nevada’s tax structure was markedly different from the  
21 federal government. *See Dayton Gold & Silver Mining Co. v. Seawell*, 11 Nev. 394, 410 (1876)  
22 (explaining the need and value of mining and the revenue that enterprise provides to the State).  
23 Founding era Nevada precedent established that forfeiture of mining rights are a harsh punishment.  
24 *See, e.g., Golden Fleece Co. v. Cable Con. Co.*, 12 Nev. 312, 326-27 (1877) (construing the  
25 forfeiture provision in a mining contract and determining that the forfeiture would not apply to an  
26 innocent co-locator); *see also Porter v. Tempa Min. & Mill. Co.*, 59 Nev. 332, 93 P.2d 741, 742  
27 (1939) (““Before forfeiture of a mining claim can be declared for failure to do annual assessment  
28 work, it must be clearly established.”” (quoting *Stratten v. Raine*, 45 Nev. 10, 197 P. 694, 696

(1921)). But even in other legal specialties, Nevada law disfavored forfeitures and imposed a high burden of proof. *See, e.g., Wilshire Ins. Co. v. State*, 94 Nev. 546, 550, 582 P.2d 372, 375 (1978) (declining to permit forfeiture in surety actions when a party has not designated a more general agent for a bail bondsman); *Worthing Motors v. Crouse*, 80 Nev. 147, 152, 390 P.2d 229, 232 (1964) (“In this connection, when equity permits a forfeiture it is usually the result of a contractual relationship between the parties but as stated in 3 Story’s Equity Jurisprudence, § 1732 (14th ed. 1918), ‘[i]t is a universal rule in equity to never enforce a penalty or a forfeiture.’”); *State v. Harmon*, 35 Nev. 189, 127 P. 221, 223 (1912) (determining in an election law case that “forfeitures are not favored”). Of course, *One 1978 Chevrolet* and *One 1983 Volkswagen* reviewed, adopted, and incorporated all these precedents into Nevada’s Civil Forfeiture Laws under NRS 453.301. 97 Nev. at 512, 634 P.2d 1209.

In 1987, as the Legislature enacted the current civil forfeiture procedure, the Legislature unconstitutionally abrogated the federal and Nevada Due Process clauses protections by imposing only a preponderance of the evidence standard. *See* 1987 Nev. Stat., ch. 571, § 12 ¶ 2, at 1382. Despite this rich history and tradition under both federal and Nevada law, the Legislature in 1987 failed to engage in any historical analysis of forfeitures at Nevada’s founding. *See, e.g.,* Hearing on SB 270 Before the Senate Judiciary Comm., at 10-14, 64th Leg. (Nev., Mar. 31, 1987); Hearing on SB 270 Before the Senate Judiciary Comm., at 8-9, 64th Leg. (Nev., Apr. 15, 1987); Hearing on SB 270 Before the Senate Judiciary Comm., at 8, 64th Leg. (Nev., May 13, 1987); Hearing on SB 270 Before the Assembly Judiciary Comm., at 1-5, 64th Leg. (Nev. Jun. 1, 1987); Hearing on SB 270 Before the Assembly Judiciary Comm., at 10-11, 64<sup>th</sup> Leg. (Nev., Jun. 11, 1987).

For example, even after Senators raised the *1983 Volkswagen* case and the Nevada Supreme Court’s explanation that “forfeitures are abhorred in the law . . . [and] are disfavored,” the drafter of SB 270 (incorrectly alleged) “this is not a correct statement when speaking of the type of forfeiture addressed in the bill.” Hearing on SB 270 Before the Senate Judiciary Comm., at 13, 64th Leg. (Nev., Mar. 31, 1987). When asked about the burden of proof, the drafter of SB 270 explained that he relied on “the federal case regarding burden of proof.” *Id.* at 12 (citing to *United States v. 66 Pieces of Jade*, 760 F.2d 970 (1985); 19 U.S.C. § 1615 (detailing the requirements of

1 a failure to declare goods and forfeiture statute)). There is no historical analysis contained in 66  
2 *Pieces of Jade* nor did 19 U.S.C. § 1615 match Nevada’s common law imposing a reasonable doubt  
3 burden of proof—instead 19 U.S.C. § 1615 requires the declarant of the goods to establish the  
4 burdens. (Cf. Sylvia’s Mot. at 25, Dec. 8, 2022, on file (“[T]here can be no governmental interest  
5 at staking in turning the presumption of innocence on its head and requiring Sylvia to prove a  
6 negative.” (citing to *Foucha v. Louisiana*, 504 U.S. 71, 94 (1992) (Kennedy, J. dissenting) (“We  
7 would not allow a State to evade its burden of proof by replacing its criminal law with a civil system  
8 in which there is no presumption of innocence.”))).)

9 In response to Senator Neal’s concerns that SB 270 is unconstitutional, the Legislative  
10 Council Bureau (“LCB”) (incorrectly) analyzed both the bill and the 1983 *Volkswagen* case. See  
11 Linda S. Jessen & Lorne J. Malkiewich, LCB Ltr. To Senator Joe Neal (Apr. 6, 1987). The LCB  
12 advised that “[t]he provision of SB 270 which provides a lesser burden of proof of the element  
13 necessary to forfeit the property would be unconstitutional only if the court held that the  
14 requirement of proof beyond a reasonable doubt was: 1) applicable to the elements necessary to  
15 forfeit the property; and 2) constitutionally mandated as to these elements.” *Id.* Again, much like  
16 the testimony before the Legislature, the LCB performed no historical analysis of the United States  
17 or Nevada’s Constitutions. See *id.* Despite these assurances, Senator Neal correctly voted against  
18 the bill and explained

19 I think that what we have here is a bill, in my judgment, that is attempting to  
20 reach a situation of criminality but yet on the other hand has permitted the taking of  
21 one’s property without due process of law. The common law has generally stated that  
22 in order for the state to engage in a forfeiture of action, the taking of property, the  
23 state must first prove a crime. That is to say, that the person who commits the crime  
24 and has been convicted of that crime should not have the benefit of that property  
25 which he has taken.

26 This bill lacks those safeguards. Therefore, I think it is unconstitutional and  
27 should not be passed by this body in the present form.

28 Journal of the Senate, 853-54 (May 22, 1987). Despite Senator Neal’s righteous vote against SB  
29 270, the Senate passed the bill and transmitted it to the Assembly. The Assembly brushed past the  
30 burden of proof issues with no debate or inquiry into the history and tradition of federal or Nevada  
31 law. See Hearing on SB 270 Before the Assembly Judiciary Comm., at 1-5, 64th Leg. (Nev. Jun.  
32 1, 1987); Hearing on SB 270 Before the Assembly Judiciary Comm., at 10-11, 64<sup>th</sup> Leg. (Nev., Jun.

1 11, 1987). In the end, SB 270 “establishe[d] proof by preponderance of the evidence as the burden  
2 for all parties to the civil forfeiture action.” 1987 Nev. Stat., ch. 571, § 12 ¶ 2, at 1382; *see also*  
3 Ross, *Civil Forfeiture: A Fiction That Offends Due Process*, 13 Regent U.L. Rev. at 264 (explaining  
4 that the convenience of the fiction of in rem proceedings to reduce drug offenses “does not justify  
5 allowing law enforcement officials to circumvent fundamental constitutional due process rights.”).

6 In 2001, the Legislature debated and amended the burden of proof to the higher—but yet  
7 still unconstitutional—burden of clear and convincing. 2001 Nev. Stat., ch. 176, § 1 ¶ 3, at 876.  
8 While the debates by the Assembly and Senate recognized the oppressive burdens imposed by the  
9 preponderance standard—none of those Legislative bodies examined either federal or Nevada  
10 precedent demanding a reasonable doubt burden of proof. *See, e.g.*, Hearing on SB 36 Before the  
11 Senate Judiciary Comm., at 12-33, 71st Leg. (Nev., Feb. 20, 2001); Hearing on SB 36 Before the  
12 Senate Judiciary Comm., at 16-19, 71st Leg. (Nev., Mar. 7, 2001); Hearing on SB 36 Before the  
13 Senate Judiciary Comm., at 22, 71st Leg. (Nev., Mar. 15, 2001); Hearing on SB 36 Before the  
14 Senate Judiciary Comm., at 9-11, 71st Leg. (Nev., Mar. 23, 2001); Hearing on SB. 36 Before the  
15 Assembly Judiciary Comm., at 2-5, 71st Leg. (Nev., Apr. 23, 2001); Hearing on SB 36 Before the  
16 Senate Judiciary Comm., at 59-60, 71st Leg. (Nev., May 21, 2001).

17 To be sure, clear and convincing is certainly better than a preponderance of evidence  
18 standard—but better does not cure NRS 179.1173(4)’s unconstitutional defect.

19 3. *NRS 179.1173(4) is an Unconstitutional Violation of Due Process.*

20 The history, tradition, and precedent under both the United States and Nevada Constitutions  
21 imposed a reasonable doubt burden of proof. *See, e.g., Brig Burdett*, 34 U.S. 682, 690; 1983  
22 *Volkswagen*, 101 Nev. at 224, 699 P.2d at 109. The Legislature’s abject failure to consider the  
23 history, tradition, and precedent in either 1987 or 2001 dooms NRS 179.1173(4)’s constitutional  
24 review. Justice Thomas cogently explained two glaring constitutional problems inherent in modern  
25 forfeiture statutes that are applicable here. *See Leonard*, 137 S.Ct. at 849 (“I am skeptical that this  
26 historical practice is capable of sustaining as a constitutional matter, the contours of modern  
27 practice for two reasons.”).

28 Justice Thomas contended that “[f]irst, historical forfeiture laws were narrower than modern

ones.” *Id.*; see also *United States v. James Daniel Good Real Prop*, 510 U.S. at 85 (Thomas, J., concurring in part and dissenting in part) (“[A]mbitious modern statutes and prosecutorial practices have all but detached themselves from the ancient notion of civil forfeiture.”) “Most obviously, they were limited to a few specific subject matters, such as customs and piracy. Proceeding *in rem* in those cases was often justified by necessity, because the party responsible for the crime was frequently located overseas and thus beyond the personal jurisdiction of United States courts.” *Leonard*, 137 S.Ct. at 849; see also Ross, *Civil Forfeiture: A Fiction That Offends Due Process*, 13 Regent U.L. Rev. at 264 (“Continuing to base jurisdiction on the legal fiction of personification, while perhaps convenient, is merely the perpetuation of an ancient form that ignores present reality—depriving individuals of cars, houses, and bank accounts is a significant punishment, more than can be inflicted in many criminal proceedings.”). Presently, “[o]urs is a world filled with more and more civil laws bearing more and more extravagant punishments. Today’s ‘civil’ penalties include . . . forfeiture provisions that allow homes to be taken. . . .” *Sessions v. Dimaya*, 138 S.Ct. 1204, 1229 (2018) (Gorsuch J., concurring in part and concurring in the judgment). Thus, because Nevada expanded forfeitures much broader than the historical practices at the founding—the burden of proof imposed must be in accord with Due Process.

“Second, it is unclear whether courts historically permitted forfeiture actions to proceed civilly in *all respects*. Some of this Court’s early cases suggested that forfeiture actions were in the nature of criminal proceedings.” *Leonard*, 137 S.Ct. at 849 (emphasis added) (citing *Boyd*, 116 U.S. at 633-34); see also *Fred v. First Jud. Dist. Ct.*, at 8, Case No. 85590 (Nov. 2, 2022) (“[D]espite being labeled a ‘civil’ forfeiture proceeding, this is a criminal statute seeking to extract an additional punishment, based on the same criminal conduct, in a separate proceeding. . . .”). “Whether forfeiture is characterized as civil or criminal carries important implications for a variety of procedural protections, including the right to a jury trial and the proper standard of proof. Indeed, as relevant in this case, there is some evidence that the government was historically required to prove its case beyond a reasonable doubt.” *Leonard*, 137 S.Ct. at 849 (citing *Brig Burdett*, 34 U.S. at 690). In other words, regardless of whether the Nevada Supreme Court concludes that a civil forfeiture of property is a criminal or civil proceeding, the history, tradition, and precedent under

1 both the United States and Nevada Constitution mandates Tri-Net meet a reasonable doubt burden  
2 of proof—not a clear and convincing standard. *Cf.* NRS 179.1173(4).

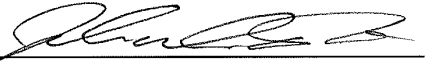
3 Thus, it is clear that Elvin met his burden demonstrating that Nevada’s Civil Forfeiture Laws  
4 violate Due Process as the burden of proof under NRS 179.1173(4) is unconstitutional. *See Silvar*,  
5 122 Nev. at 292, 129 P.3d at 684. The history, tradition, and precedent under both federal and  
6 Nevada law imposed a reasonable doubt burden of proof—NRS 179.1173(4)’s clear and convincing  
7 burden is unconstitutional. Summary judgment is therefore proper, and this Court should declare  
8 that Nevada’s Civil Forfeiture Laws violate Elvin’s Due Process rights.

9 **IV. CONCLUSION**

10 For all the reasons detailed above, Elvin asks this Court to join Sylvia’s Motion under NRC  
11 42(a). Elvin additionally also asks this Court to grant him partial summary judgment and declare  
12 that Nevada’s Civil Forfeiture Laws violate the United States and Nevada Constitution’s Due  
13 Process clauses.

14 Dated this 12th day of December 2022.

15 McDONALD CARANO LLP

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24 *Claimant Sylvia Fred*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP and that, on this 12th day of December 2022, I caused to be delivered via email, and hand delivery, true and correct copies of the above **ELVIN FRED'S JOINDER TO SYLVIA FRED'S MOTION FOR PARTIAL SUMMARY JUDGMENT SEEKING A DECLARATION THAT NEVADA'S CIVIL FORFEITURE LAWS VIOLATE DUE PROCESS AND ELVIN FRED'S MOTION FOR PARTIAL SUMMARY JUDGMENT SEEKING A DECLARATION THAT NEVADA'S CIVIL FORFEITURE LAWS VIOLATE DUE PROCESS** to the following:

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State of Nevada  
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**FIRST JUDICIAL DISTRICT COURT**

**CARSON CITY, NEVADA**

SYLVIA FRED, an individual,  
Plaintiff,

v.

ANDREW RASOR, CARSON CITY  
TREASURER AND EX OFFICIO TAX  
RECEIVER; CARSON CITY BOARD OF  
SUPERVISORS; STATE OF NEVADA ex  
rel. INVESTIGATION DIVISION OF THE  
NEVADA STATE POLICE (TRI-NET  
NARCOTICS TASK FORCE),

Defendants,

Case No.: 21 RP 00005 1B  
Dept. No.: 2

**SYLVIA FRED'S MOTION UNDER NRCP  
42(a) TO CONSOLIDATE THE CIVIL  
FORFEITURE PROCEEDINGS CASE NO  
15 OC 0074 1B WITH THE TAX  
PROCEEDINGS CASE NO 21 RP 00005 1B  
FOR JUDICIAL ECONOMY AND  
EFFICIENCY PURPOSES**

SYLVIA FRED, an individual,  
Plaintiff,

v.

ANDREW RASOR, CARSON CITY  
TREASURER AND EX OFFICIO TAX  
RECEIVER; CARSON CITY BOARD OF  
SUPERVISORS;

Respondents,

STATE OF NEVADA ex rel.  
INVESTIGATION DIVISION OF THE  
NEVADA STATE POLICE (TRI-NET  
NARCOTICS TASK FORCE),

Real Party in Interest,

and

**MOTION TO LIFT STAY AND ORDER  
THE TAX PROCEEDING DEFENDANTS  
TO FILE A RESPONSIVE PLEADING IN  
45 DAYS**

Under NRCP 42(a), Plaintiff/Petitioner Sylvia Fred ("Sylvia") moves to consolidate *In re*  
3587 Desatoya Drive, and Sylvia's Counterclaims *Fred v. Tri-Net*, Case No. 15 OC 00074 1B (the



1 these proceedings are currently before this Court in Department 2, and all of these proceedings  
2 share a common question of operative facts and law—Tri-Net’s gross negligence and failure to  
3 maintain the Home. There will be no confusion, delay, or prejudice through consolidation. Thus,  
4 judicial economy and efficiency will be served by resolving all of these proceedings at once.

5 Sylvia additionally asks this Court to lift the stay imposed in the Tax Proceeding, order the  
6 Defendants to file a responsive pleading under NRCP 12 within the next 45 days and proceed with  
7 discovery and trial simultaneously with the Civil Forfeiture and Counterclaim Proceeding.

8 This Motion is based on NRCP 42(a), NRCP 12, the following memorandum of points and  
9 authorities, the pleadings and papers on file here, and any oral argument requested by the Court and  
10 such other matters as the Court may find appropriate.

11 Dated this 12th day of December 2022.

12 McDONALD CARANO LLP

13 By: 

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17 *Pro Bono Counsel for*  
18 *Claimant Sylvia Fred*

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

The Civil Forfeiture and Counterclaim Proceedings and the Tax Proceedings share common questions of law and facts—Tri-Net’s gross negligence in its care and upkeep of the real property at 3587 Desatoya Drive, Carson City, 89107 (“Home”). For judicial economy and efficiency, and because there will be no prejudice, confusion, or delay, consolidation of these proceedings is proper. As this Court orders consolidation, it should simultaneously order the Tax Proceeding Defendants to provide a responsive pleading to Sylvia’s complaint in 45 days or January 26, 2023.

**II. FACTUAL AND PROCEDURAL HISTORY OF THE DIFFERENT ACTIONS**

**A. Tri-Net Begins the Forfeiture Proceedings in Case No. 15 OC 00074 1B.**

On April 1, 2015, Tri-Net began the forfeiture proceeding on the Home and simultaneously filed and recorded a *lis pendens*. (See Compl., Apr. 1, 2015, on file; Not. of Lis Pendens, Apr. 1, 2015, on file.) After clouding title to the Home, Tri-Net then served Elvin with a summons and a copy of the complaint. (See Summons, Apr. 3, 2015, on file.) On April 28, 2015, Tri-Net and Elvin entered into a stipulation and this Court ordered a stay to the proceedings pending resolution of Elvin’s criminal proceedings. (See Not. of Entry of Ord., Apr. 29, 2015, on file.) Tri-Net mailed Sylvia notice of the stay in Minnesota. (See *id.*) At oral arguments before the Nevada Supreme Court, Tri-Net admitted that in April 2015, it understood that Sylvia was making a claim as a property owner. (See [https://nvcourts.gov/Supreme/Arguments/Recordings/80194\\_In\\_Re\\_3587\\_Destoya\\_Dr\\_Carson\\_City\\_Nev\\_89701/](https://nvcourts.gov/Supreme/Arguments/Recordings/80194_In_Re_3587_Destoya_Dr_Carson_City_Nev_89701/). (hereinafter “Oral Arguments”).)

Several years later, Elvin’s criminal proceedings reached finality. See *Fred (Elvin) v. State*, Case No. 72521 (Ord. of Affirmance, Mar. 14, 2018); NRAP 36(c). Shortly thereafter, Tri-Net moved to lift the stay—without providing notice to either Elvin or Sylvia. (See Sylvia’s Verified Answer & Countercl., ¶ 19 Jun. 28, 2022, on file (“Even though Tri-Net knew Sylvia was an interested claimant as defined by NRS 179.1158 and provided her notice of the stay in the first place, Tri-Net did not provide Sylvia with any notice (included the complaint or the summons) that the forfeiture proceedings had resumed.”); Elvin Answer & Countercl., ¶¶ 27, 30, Oct. 7, 2022, on file (“Thus, even though Elvin was easily accessible to Tri-Net to determine whether Graham still

1 represented Elvin, Tri-Net continued to *only* send its notices, motions, and other pleadings to  
2 Graham.” “Elvin never received any notification that Tri-Net resumed the forfeiture proceeding or  
3 that Tri-Net sought a default judgment on the Home.”). Tri-Net eventually obtained a default  
4 judgment in the forfeiture proceeding. (*See* Am. Default J., May 10, 2019, on file.)

5 B. Sylvia Intervenes, Challenges the Default Judgment, and Prevails on Appeal.

6 After Tri-Net trespassed on Sylvia’s property and attached a 5-day at-will eviction notice,  
7 Sylvia challenged the eviction with Tri-Net officers. (*See* Sylvia’s Mot. for Partial Summ. J., Dec.  
8 8, 2022, on file; *see also id.* at App’x at Ex. 20-21, S. Fred email communications with Tri-Net.)  
9 Sylvia moved in this Court to set aside the default judgment. (*See* Mot. to Vacate Default J., Oct.  
10 4, 2019, on file.) This Court denied Sylvia’s Motion. (*See* Order, Nov. 8, 2019, on file.) Sylvia  
11 timely appealed. *See In re: 3587 Desatoya Drive*, Case No. 80194. Following undersigned  
12 counsel’s association as pro bono counsel, Sylvia and Tri-Net proceeded on appeal by fully briefing  
13 the arguments regarding the void default judgment. (*See* Compl. ¶ 15, *Fred v. Rasor, et al.*, 21 RP  
14 00005 1B, May 19, 2020, on file (“On January 22, 2021, Sylvia filed her opening brief, Tri-Net  
15 filed its answering brief on Mach 8, 2021, and on April 7, 2021, Sylvia filed her reply brief.”).  
16 Days after completing briefing, Carson City began foreclosure proceedings on the Home.

17 C. Tri-Net Failed to Pay the Property Taxes and Carson City Began Delinquent Tax  
18 Foreclosure Proceedings in Case No. 21 RP 00005 1B.

19 On April 12, 2021, Sylvia received a letter in the mail from the Carson City Treasurer in  
20 which it stated:

21 In accordance with NRS 361.5648, 36.565, and 361.585, unless the following  
22 delinquent taxes on your property in the name of **SYLVIA FRED**, owner(s), are **paid**  
23 **in full on or before the 7<sup>th</sup> Monday in June, 2021**, a Deed will be issued to Carson  
24 City.

25 The above-mentioned parcel [Parcel Number: 010-442-11 Address 3587 Desatoya  
26 Dr.] will be subject to the public sale process upon approval from the Carson City  
27 Board of Supervisors.

28 (*See id.* at Ex. 1, Carson City Treasurer’s Letter, dated Apr. 7, 2021 (emphasis in original).) Tri-  
Net failed to pay the property taxes after it obtained the amended default judgment, evicted Sylvia’s  
family and tenants, and while the appeal in Case No. 80194 was pending.

Thus, in order to protect her property rights, Sylvia brought suit against Andrew Rasor, the Carson City Tax Collector and *ex officio* Tax Receiver, the Carson City Board of Supervisors, and Tri-Net. (*See id.*) She brought declaratory relief and in the alternative, a writ of prohibition. (*See id.*) As she began this additional litigation, Sylvia moved on an order shortening time for a temporary restraining order and preliminary injunction. (*See* Mot., May 19, 2021, on file.) Shortly thereafter, all of the Parties stipulated and this Court enjoined the delinquent tax proceedings. (*See* Order, Jun. 3, 2021, on file.) Specifically,

1) Defendants/Respondents/Real Party in Interest stipulate and agree to acceptance of service of the Complaint or in the alternative the Writ of Prohibition and the Motion;

2) to pause and arrest any and all delinquent tax foreclosure proceedings on the property, . . .

3) to stay all filings, discovery, and deadlines including all answers or oppositions, and early case-conference requirements under NRCP 16.1 in this matter until the Appeal reaches finality;

4) appear and check in with the Court in one hundred and twenty (120) days for a status conference or at the court's convenience from entry of this Order to inform the Court on the status and need to continue this order and its effects or to proceed with this litigation;

(*Id.*) As shown below, the Tax Proceeding is ripe to proceed with an Answer and discovery.

D. Sylvia Prevails Before the Nevada Supreme Court, Answers and Counterclaims, and Discovery is Ongoing in the Civil Forfeiture and Counterclaim Proceeding.

Following oral arguments, the Nevada Supreme Court concluded that Sylvia possessed standing, that Tri-Net's default judgment was void, and instructed this Court to vacate Tri-Net's default judgment on remand. *See In re: 3587 Desatoya Drive*, Case No. 80194, 2021 WL 4847506 (Order of Reversal and Remand, Oct. 15, 2021). This Court vacated the default judgment and instructed Tri-Net to return possession of the Home to Sylvia. (*See* Not. of Entry of Ord. J., March 14, 2022, on file.) As explained by Sylvia previously, when Sylvia obtained possession of the Home and reentered to assess the damage, she was shocked because her Home is completely uninhabitable. (*See* Sylvia's Mot. for Partial Summ. J., Dec. 8, 2022, on file; *see also id.* at App'x at Ex. 17.)

Tri-Net amended its Complaint and finally provided Sylvia notice of the proceedings as

1 required by Nevada law. (See Pl.’s FAC, Mar. 22, 2022, on file; Affidavit of Service of FAC, Mar.  
2 24, 2022, on file.) Sylvia then moved to dismiss Tri-Net’s complaint on multiple grounds. (See,  
3 e.g., Sylvia Mot. to Dismiss, May 3, 2022, on file; Tri-Net Opp’n, May 20, 2022, on file; Sylvia  
4 Reply, May 31, 2022, on file.) After full briefing, this Court denied Sylvia’s motion. (Order, Jun.  
5 9, 2022, on file). Sylvia then answered and counterclaimed. (See Sylvia Verified Answer &  
6 Countercl., Jun. 28, 2022, on file.) Tri-Net answered Sylvia’s counterclaims.<sup>1</sup> (See Tri-Net  
7 Answer, Sept. 16, 2022, on file.) The Parties completed their early case conference on September  
8 23, 2022, and discovery opened on November 9, 2021. (See Joint Case Conference Report, Dec.  
9 5, 2022, on file.) The Parties have provided their NRCP 16.1 disclosures and Sylvia propounded  
10 discovery on Tri-Net. (See Ex. 1-5.)

11 For judicial economy and efficiency, Sylvia now moves to consolidate the Civil Forfeiture  
12 and Counterclaim Proceeding with the Tax Proceeding. Sylvia likewise requests this Court to lift  
13 the stay to the Tax Proceeding and order the Tax Proceeding Defendants to provide a responsive  
14 pleading in 45 days as required under NRCP 12(a)(2).

### 15 **III. LEGAL ARGUMENT**

#### 16 **A. Consolidation of these Proceedings Will Foster Judicial Economy and Efficiency**

17 NRCP 42(a) provides that “[i]f actions before the court involve a common question of law  
18 or fact, the court may (1) join for hearing or trial any or all matters at issue in the actions.” “We  
19 reiterate our goal of promoting judicial efficiency in permitting consolidation.” *Nalder v. Eighth*  
20 *Jud. Dist. Ct.*, 136 Nev. 200, 207, 462 P.3d 677, 685 (2020). “[T]his rule ‘may be invoked only to  
21 consolidate actions already pending.’” *Id.* (quoting *Pan Am. World Airways, Inc. v. U.S. Dist. Ct.*,  
22 523 F.2d 1073, 1080 (9th Cir. 1975)). “Although the language of Rule 42(a) suggests otherwise,  
23 consolidation need not be only for trial. Consolidation of actions in their pretrial stage, under many  
24 circumstances, will be a desirable administrative technique and is within the power of the court.”  
25 9A Wright & Miller, *Fed. Prac. & Proc.*, § 2382 (3d ed. 2022); see also *Marcuse v. Del Webb*

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27 <sup>1</sup> Elvin additionally answered and counterclaimed which Tri-Net answered. (See Elvin  
28 Answer & Countercl., Oct. 7, 2022, on file; Tri-Net Answer, Dec. 2, 2022, on file.)

1 *Communities, Inc.*, 123 Nev. 278, 286 163 P.3d 462, 467-68 (2007) (“Both NRCP 42(a) and its  
2 federal counterpart allow for consolidation of actions that involve a common question of law or  
3 fact. Under FRCP 42(a), which is identical to NRCP 42(a), federal district courts enjoy broad but  
4 not unfettered, discretion in ordering consolidation.” (footnote omitted)).

5 Importantly, “[t]he consent of the parties is not required by the rules to accomplish the  
6 consolidation. Rather, it is for the district court to weigh the saving of time and effort that  
7 consolidation under Rule 42(a) would produce against any inconvenience, delay or expense that it  
8 would cause for the litigants and the trial judge.” 9A Wright & Miller, *Fed. Prac. & Proc.*, § 2383  
9 (3d ed. 2022) (footnote omitted)

10 The critical question for the district court in the final analysis was whether the specific  
11 risks of prejudice and possible confusion were overborne by the risk of inconsistent  
12 adjudications of common factual and legal issues, the burden on parties, witnesses  
13 and available judicial resources posed by multiple lawsuits, the length of time required  
to conclude multiple suits as against a single one, and the relative expense to all  
concerned of the single-trial, multiple-trial alternatives.

14 *Arnold v. Eastern Airlines*, 681 F.2d 186, 193 (4th Cir. 1982). As shown below, judicial economy  
15 and efficiency will be served by consolidating the Civil Forfeiture Proceeding and Counterclaims  
16 with the Tax Proceeding.

17 1. *Consolidation will not confuse the issues*

18 Consolidation is improper if “it might result in possible confusion or prejudice.” 9A Wright  
19 & Miller, *Fed. Prac. & Proc.*, § 2383 (3d ed. 2022). The Federal Courts typically look at the relief  
20 sought to determine if confusion will result through consolidation. *See EPA v. City of Green Forest*,  
21 921 F.3d 1394, 1396 (8th Cir. 1990) (denying consolidation of proceedings where a party sought  
22 punitive damages, compensatory damages for personal injuries, and many common-law torts were  
23 not relevant to the EPA action and that the EPA claims would be tried by a jury while the EPA  
24 action would be tried by the court).

25 The Tax Proceeding and Tri-Net’s failure to pay the property taxes is front and center in the  
26 Civil Forfeiture and Counterclaim Proceeding. (*See Sylvia’ Mot. for Summ. J. at 5 n.2, Dec. 8,*  
27 *2022, on file* (detailing Tri-Net’s “complete lack of care for the Home from 2019 to 2022” relying  
28 on both its failure to pay the property taxes and its destruction of the Home); *see also id.* (citing to

1 the Tax Proceeding Complaint).) This is because each of these proceedings are grounded in  
2 common questions of law and fact—Tri-Net’s gross negligence and failure to maintain the Home.  
3 See NRCP42(a). Moreover, both Elvin and Sylvia moved for both monetary damages and  
4 declaratory relief in their Counterclaims. (See Sylvia Verified Answer & Countercl., Jun. 28, 2022,  
5 on file; Elvin Answer & Countercl., Oct. 7, 2022, on file.) The Tax Proceeding involves a single  
6 claim for declaratory relief and an alternative claim for a writ of prohibition. (See Ex. 1.) In other  
7 words, both actions include declaratory relief before this Court and there will be confusion of the  
8 issues.

9 2. *Consolidation will not delay the resolution of either proceeding.*

10 “A motion to consolidate may be made as soon as the issues that justify consolidation  
11 become apparent, even though formally those matters have not yet been joined between the parties  
12 in one or more of the individual actions.” 9A Wright & Miller, *Fed. Prac. & Proc.*, § 2383 (3d ed.  
13 2022). Consolidation is proper now because both Sylvia and Elvin’s Counterclaims have been  
14 answered, discovery just began, and, as explained below, ordering the Tax Proceeding Defendants  
15 to answer and begin litigating the Tax Proceeding will expedite resolution of all of these  
16 proceedings in a singular discovery action which will promote efficiency.

17 To be sure, there will be no delay by consolidating the Civil Forfeiture and Counterclaim  
18 Proceeding with the Tax Proceeding. However, even if there was a delay it would be minimal. See  
19 *Hanson v. District of Columbia*, 257 F.R.D. 19, 22 (D.D.C. 2009) (“[I]t is the court’s duty to  
20 consider not only the delay that consolidating the cases might cause for the plaintiffs, but also the  
21 delay that *not* consolidating the cases would causes for the defendants and for the court.” (emphasis  
22 in original)). Tri-Net only recently answered both Elvin and Sylvia’s Counterclaims. (Tri-Net  
23 Answer, Sept. 16, 2022, on file; Tri-Net Answer, Dec. 2, 2022, on file.) Discovery has only recently  
24 opened in Sylvia’s counterclaims. (See Ex. 4-8.) Elvin and Tri-Net will be conducting their Early  
25 Case Conference and submitting their Supplemental Joint Case Conference Report in the coming  
26 weeks and discovery will open shortly thereafter for Elvin and Tri-Net. Cf. 9A Wright & Miller,  
27 *Fed. Prac. & Proc.*, § 2383 (3d ed. 2022) (“In addition, the district court may deny consolidation  
28 when one of the actions has proceeded further in the discovery process than the other. However,

1 the fact that the actions are at different stages of trial preparation does not preclude consolidation  
2 than the other.”). In other words, because all of these cases are in their nascency, there will be no  
3 delay and consolidation is proper. *See Hanson*, 257 F.R.D. at 22.

4 3. *Consolidation will preserve judicial resources and reduce the costs*

5 Consolidation of these proceedings will preserve precious judicial resources. These matters  
6 all revolve around the same common questions of law and fact and are hardly voluminous. *Cf.*  
7 *Innov. Ventures LLC v. Custom Nutrition Laboratories, LLC*, 451 F. Supp. 3d 769, 793 (E.D. Mich.  
8 2020) (“Consolidation is improper when the introduction of voluminous evidence, relevant to one  
9 of the consolidated actions but irrelevant to another, impairs the conduct of the trial.”). The facts  
10 and evidence in both proceedings are similar and coterminous. *Cf. Jackson v. Berkey*, 2020 WL  
11 1974247, \*2 (W.D. Wash. 2020) (denying consolidation because evaluating “separate and distinct  
12 evidence” would waste judicial resources). Thus, resolving these matters together will promote  
13 judicial economy and efficiency.

14 It should not be lost that Elvin and Sylvia’s counsel is providing legal services pro bono.  
15 (*See* Statement of Legal Aid for Sylvia Fred, Case No. 15 OC 00074 1B, Dec. 10, 2021, on file;  
16 Statement of Legal Aid for Elvin Fred, Case No. 15 OC 00074 1B, Jun. 27, 2022, on file.)  
17 Furthermore, Sylvia only recently understood that a Tax Proceeding Defendant—Andrew Rasor—  
18 is likewise named as a witness by Tri-Net in the Civil Forfeiture and Counterclaim Proceeding. *See*  
19 Ex. 6 at 3 (“Andrew Rasor will testify to all facts and circumstances of an investigation which led  
20 to the arrest of ELVIN LEE FRED. . .”). Thus, in addition to preserving judicial resources,  
21 consolidating these proceedings will reduce the pro bono costs associated with deposing individuals  
22 who are witnesses in both proceedings.

23 To that end, Sylvia seeks to clear the cloud over the title to her Home once and for all. She  
24 is currently facing separate battles—one against Tri-Net asking to forfeit the home under NRS  
25 453.301, one asking for relief from Tri-Net’s destruction of her Home, and the other against Carson  
26 City asking to foreclose on the home under NRS 361.5648. *See* 9A Wright & Miller, *Fed. Prac. &*  
27 *Proc.*, § 2384 (3d ed. 2022) (“[W]hen an action for declaratory relief is filed to determine a critical  
28 issue of an already pending affirmative lawsuit between the same parties, consolidation is



appropriate.”). Thus, resolving all of these issues in one proceeding, during one singular time period of discovery, will reduce the significant costs on all of the parties involved—especially the Court.

4. *There is no prejudice to any party through consolidation.*

All of the Parties in the Civil Forfeiture and Counterclaim Proceedings as well as the Tax Proceedings are represented by the same counsel. There may be different affirmative defenses that Tri-Net and the other Tax Proceeding Defendants may raise but that situation already exists with both Sylvia and Elvin raising different affirmative defenses and counterclaims against Tri-Net. *See Scott v. United States*, 2020 WL 2573568, \*4 (S.D. Ill. 2020) (“While noting that having the Government representing two different entities with different affirmative defenses may indeed produce some confusion, the Court is confident that it is capable of understanding and distinguishing any arguments advanced by the Government. Furthermore, any confusion resulting from consolidation will be less than the potential confusion arising from having two separate proceedings, even with coordinate discovery schedules.”). For any issues that this Court is not going to resolve, carefully written jury instructions will protect against any confusion and the parties and the Court have more than ample time to draft those. *See Rogers v. Dep’t of Public Safety and Correctional Serv.*, 2020 WL 298139, \*3 (D. Md 2020) (concluding standard jury instructions would suffice to avoid confusion).

Moreover, “[a]lthough identity of the parties in multiple actions strengthens the case for consolidation under Rule 42(a), it is not required. A substantial common question of law is enough. If an appropriate common question exists, federal courts often have consolidated actions despite differences in the parties.” 9A Wright & Miller, *Fed. Prac. & Proc.*, § 2384 (3d ed. 2022). Courts have found a “pervasive overlap of law and fact” in two cases, even with different parties was sufficient for consolidation. *Sunbelt Rentals, Inc. v. Ghent*, 2018 WL 1182519 (W.D. N.C. 2018). Indeed “[c]ases may be consolidated even where, as here, certain defendants are named in only one of the complaints.” *Safran v. Sheriff of Nassau Cnty*, 2012 WL 3027924, \*1 (E.D. N.Y. 2012); *Nat’l Ass’n of Mortg. Brokers v. Brd. Of Governors of Federal Reserve System*, 770 F. Supp. 2d 283, 286 (D.D.C. 2011) (“Identity of the parties is not a prerequisite.”). There is substantial overlap between these two proceedings such that any prejudice Tri-Net or the other Tax Proceeding

1 Defendants might raise cannot be enough to negate the economy and efficiency of consolidation.

2 In sum, there will be no confusion, little or no delay, and no prejudice through consolidation  
3 of the Civil Forfeiture Proceeding and Counterclaims with the Tax Proceeding. Indeed,  
4 consolidation will promote judicial efficiency and reduce the costs of these proceedings. Sylvia  
5 therefore asks this Court to consolidate these proceedings.

6 B. The Tax Proceeding Defendants have Already been Served Therefore Ordering  
7 them to File a Responsive Pleading in the Next 45 Days is Proper.

8 As the June 2021 Order detailed, “Defendants/Respondents/Real Party in Interest stipulate  
9 and agree to acceptance of service of the Complaint or in the alternative the Writ of Prohibition and  
10 the Motion.” (Order, Jun. 3, 2021, on file.) Sylvia, therefore, asks this Court to lift the stay and  
11 order the Tax Proceeding Defendants to provide a responsive pleading in 45 days. (*See id.* ¶ 4  
12 (providing that at “the court’s convenience from the entry of this Order to inform the Court on the  
13 status and need to continue this order and its effects or to *proceed with this litigation.*” (emphasis  
14 added)).) It is time to proceed with the Tax Proceeding and resolve this dispute simultaneously as  
15 this Court resolves the Civil Forfeiture and Counterclaim Proceeding.

16 “The power to stay proceeding is incidental to the power inherent in every court to control  
17 the disposition of the causes on its docket with economy of time and effort for itself, for counsel,  
18 and for litigants.” *Maheu v. Eighth Jud. Dist. Ct.*, 89 Nev. 214, 217, 510 P.2d 627, 629 (1973  
19 (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936))). “The corollary to this power is the ability  
20 to lift a stay previously imposed.” *Boyle v. Cnty of Kern*, Case no. 03-CV-5162-OWW-GSA, 2008  
21 WL 220413, at \*5 (E.D. Cal. Jan. 25, 2008); *Canady v. Erbe Elektromedizin*, 271 F.Supp.2d 64, 75  
22 (D.D.C. 2002) (“The same court that imposes a stay of litigation has the inherent power and  
23 discretion to lift the stay.”). “The district court’s interest is, of course, ‘deserving of substantial  
24 weight.’” *Aspen Fin. Servs. Inc. v. Eighth Jud. Dist. Ct.*, 289 P.3d 201, 210 (Nev. 2012)  
25 (*Microfinancial, Inc. v. Premier Holidays Int’l*, 385 F.3d 72, 79 (1st Cir. 2004) “[C]onvenience of  
26 the Courts is best served when motions to stay proceedings are discouraged.” *Aspen*, 389 P.2d at  
27 310 (emphasis added) (quoting *United States v. Private Sanitation Industry Ass’n*, 811 F. Supp. 2d  
28 802, 808 (E.D.N.Y. 1992)).

Tri-Net (a party in both the Civil Forfeiture and Counterclaim Proceeding and the Tax Proceeding) has answered both Elvin and Sylvia's Counterclaims. Discovery has begun in those actions but the pleadings period is still open for amendment—indeed a Joint Case Conference Report has not been provided by the Parties for Elvin's Counterclaims. Thus, following consolidation of these two actions, ordering the Defendants to Respond to Sylvia's Tax Proceeding Complaint, and performing discovery simultaneously and in coordination with the Civil Forfeiture and Counterclaim proceeding is expedient, efficient, and proper. Thus, the Tax Proceeding Defendants should be instructed to file a responsive pleading in accordance with the Rules. See NRCP 12(a)(2) (providing that "[u]nless another time is specified by Rule 12(a)(3) or a statute; the following parties must serve an answer to a complaint, counterclaim, or crossclaim within 45 days after service on the party; or if required service on the Attorney General, whichever date of service is later").

Sylvia, therefore, requests an Order from this Court lifting the stay and instructing the Tax Proceeding Defendants to provide a responsive pleading to Sylvia's Complaint and in the alternative Writ of Prohibition in 45 days or January 26, 2023.

#### IV. CONCLUSION

For all the reasons detailed above, Sylvia asks this Court to consolidate the Civil Forfeiture and Counterclaim Proceedings with the Tax Proceedings. As this Court consolidates these actions, she likewise requests this Court order the Tax Proceeding Defendants to provide a responsive pleading to Sylvia's complaint in 45 days or January 26, 2023.

Dated this 12th day of December 2022.

McDONALD CARANO LLP

By: 

Ryan J. Works, Esq. (NSBN 9224)  
John A. Fortin, Esq. (NSBN 15221)  
2300 West Sahara Avenue, Suite 1200  
Las Vegas, Nevada 89102  
[rworks@mcdonaldcarano.com](mailto:rworks@mcdonaldcarano.com)  
[jfortin@mcdonaldcarano.com](mailto:jfortin@mcdonaldcarano.com)

*Pro Bono Counsel for  
Claimant Sylvia Fred*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP and that, on this 12th day of December 2022, I caused to be delivered via email, and hand delivery, true and correct copies of the above **SYLVIA FRED'S MOTION UNDER NRCP 42(A) TO CONSOLIDATE THE CIVIL FORFEITURE AND COUNTERCLAIM PROCEEDINGS, CASE NO. 15 OC 00074 1B WITH THE TAX PROCEEDING CASE NO 21 RP 00005 1B FOR JUDICIAL ECONOMY AND EFFICIENCY PURPOSES** to the following:

Jason Woodbury  
Carson City District Attorney  
Benjamin Johnson  
Carson City Senior Deputy District Attorney  
Carson City's District Attorney's Office  
885 East Musser Street | Suite 2030  
Carson City, Nevada 89701  
[jwoodbury@carson.org](mailto:jwoodbury@carson.org)  
[bjohnson@carson.org](mailto:bjohnson@carson.org)

**Counsel for all Parties in Case No. 15 OC 00074 1B and Case No. 21 RP 00005 1B**

Investigation Division of the Department of Public Safety  
State of Nevada  
(Tri-Net Narcotics Task Force)  
555 Wright Way  
Carson City, Nevada 89711

Andrew Rasor  
Carson City Treasurer and Ex-Officio Tax Receiver  
201 North Carson Street | Suite 5  
Carson City, Nevada 89701

Carson City Board of Supervisors  
City Hall  
201 North Carson Street | Suite 2  
Carson City, Nevada 89701

  
An employee of McDonald Carano LLP

# Exhibit 1

1 CARSON CITY DISTRICT ATTORNEY  
2 JASON D. WOODBURY

3 District Attorney

4 Nevada Bar No. 6870

5 BENJAMIN R. JOHNSON

6 Senior Deputy District Attorney

7 Nevada Bar No. 10632

8 885 East Musser Street

9 Suite 2030

10 Carson City, Nevada 89701

11 T: 775.887.2070

12 F: 775.887.2129

13 E-mail: [jwoodbury@carson.org](mailto:jwoodbury@carson.org)

14 [bjohnson@carson.org](mailto:bjohnson@carson.org)

15 Representing Plaintiff

16  
17 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
18 IN AND FOR CARSON CITY  
19

20 In re:

21 3587 Desatoya Drive, Carson City, Nevada  
22 89701, more particularly described as all  
23 that certain parcel of land situate in the City  
24 of Carson City, County of Carson City and  
25 State of Nevada, being known and  
26 designated as follows: Parcel N-33 as  
27 shown on Parcel Map No. 1704 for Stanton  
28 Park Development, Inc., filed in the office of  
the Recorder of Carson City, Nevada on  
August 11, 1989 as File No. 89253, Carson  
City Assessor's Parcel Number: 010-443-11.

Case No. 15 OC 00074 1B

Dept. No. 2

PLAINTIFF'S NRCP 16.1 INITIAL DISCLOSURES

Plaintiff, the INVESTIGATION DIVISION OF THE DEPARTMENT OF PUBLIC  
SAFETY OF THE STATE OF NEVADA (Tri-Net Narcotics Task Force (TRI NET)), by and  
through its counsel of record, JASON D. WOODBURY, Carson City District Attorney, and  
BENJAMIN R. JOHNSON, Senior Deputy District Attorney, hereby provides the initial  
disclosures pursuant to NRCP 16.1(a)(1) as follows:

///

///

1 **I. LIST OF INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION**

- 2
- 3 1. Mitch Pier  
4 c/o Carson City District Attorney's Office  
5 885 E. Musser Street, Suite 2030  
6 Carson City, NV 89701  
7 (775) 887-2072

8 Mitch Pier will testify to all facts and circumstances of an investigation which led to the  
9 arrest of ELVIN LEE FRED on or about March 19, 2015, and evidence discovered at  
10 3587 Desatoya Drive, Carson City, Nevada during the execution of a search warrant on  
11 March 19, 2015.

- 12 2. Danton Vidovich  
13 c/o Carson City District Attorney's Office  
14 885 E. Musser Street, Suite 2030  
15 Carson City, NV 89701  
16 (775) 887-2072

17 Danton Vidovich will testify to all facts and circumstances of an investigation which led  
18 to the arrest of ELVIN LEE FRED on or about March 19, 2015, and evidence  
19 discovered at 3587 Desatoya Drive, Carson City, Nevada during the execution of a  
20 search warrant on March 19, 2015.

- 21 3. Buck Stetler  
22 c/o Carson City District Attorney's Office  
23 885 E. Musser Street, Suite 2030  
24 Carson City, NV 89701  
25 (775) 887-2072

26 Buck Stetler will testify to all facts and circumstances of an investigation which led to  
27 the arrest of ELVIN LEE FRED on or about March 19, 2015, and evidence discovered  
28 at 3587 Desatoya Drive, Carson City, Nevada during the execution of a search warrant  
on March 19, 2015.

- 1 Brian Hubkey  
c/o Carson City District Attorney's Office  
885 E. Musser Street, Suite 2030  
Carson City, NV 89701  
(775) 887-2072

Brian Hubkey will testify to all facts and circumstances of an investigation which led to  
the arrest of ELVIN LEE FRED on or about March 19, 2015, and evidence discovered  
at 3587 Desatoya Drive, Carson City, Nevada during the execution of a search warrant  
on March 19, 2015.

- 1 5. Dave McNeely  
2 c/o Carson City District Attorney's Office  
3 885 E. Musser Street, Suite 2030  
4 Carson City, NV 89701  
5 (775) 887-2072

6 Dave McNeely will testify to all facts and circumstances of an investigation which led to  
7 the arrest of ELVIN LEE FRED on or about March 19, 2015, and evidence discovered  
8 at 3587 Desatoya Drive, Carson City, Nevada during the execution of a search warrant  
9 on March 19, 2015.

- 10 6. Andrew Rasor  
11 c/o Carson City District Attorney's Office  
12 885 E. Musser Street, Suite 2030  
13 Carson City, NV 89701  
14 (775) 887-2072

15 Andrew Rasor will testify to all facts and circumstances of an investigation which led to  
16 the arrest of ELVIN LEE FRED on or about March 19, 2015, and evidence discovered  
17 at 3587 Desatoya Drive, Carson City, Nevada during the execution of a search warrant  
18 on March 19, 2015.

- 19 7. Coley McCann  
20 c/o Carson City District Attorney's Office  
21 885 E. Musser Street, Suite 2030  
22 Carson City, NV 89701  
23 (775) 887-2072

24 Coley McCann will testify to all facts and circumstances of an investigation which led to  
25 the arrest of ELVIN LEE FRED on or about March 19, 2015, and evidence discovered  
26 at 3587 Desatoya Drive, Carson City, Nevada during the execution of a search warrant  
27 on March 19, 2015.

- 28 8. Diane Machen  
WASHOE COUNTY SHERIFF'S OFFICE  
Forensic Science Division  
911 Parr Boulevard  
Reno, Nevada 89512

DIANE MACHEN will testify in regard to her examination, analysis, and identification of  
material discovered at 3587 Desatoya Drive, Carson City, including, without limitation,  
zip-lock plastic bags containing approximately 140 grams of methamphetamine.

9. Sylvia Fred  
c/o McDonald Carano LLP

Sylvia Fred is a claimant and Counterclaimant in this action and has knowledge  
regarding the facts alleged in her counterclaim and alleged damages.



10. Elvin Fred  
c/o McDonald Carano LLP

Elvin Fred is a claimant and Counterclaimant in this action and has knowledge regarding the facts alleged in her counterclaim and alleged damages.

Carson City reserves the right to supplement the list of witnesses throughout the discovery process, to call upon any witness(es) identified by Plaintiffs, or any other party, and to call upon any witness(es) for the purposes of rebuttal and impeachment.

## II. LIST OF DOCUMENTS

1. Plaintiff 0001-0322 – documents related to the investigation and execution of a search warrant in the underlying criminal case against Elvin Fred.

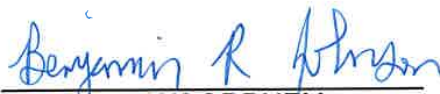
Carson City reserves the right to supplement the list of documents throughout the discovery process, to introduce any document(s) identified by Plaintiffs, or any other party, and to call introduce any document(s) for the purposes of rebuttal and impeachment.

## III. COMPUTATION OF DAMAGES

Plaintiff is seeking forfeiture of the Desatoya property. Plaintiff is not seeking monetary damages with the exception of any attorneys' fees and costs which may be allowable under the law.

DATED this 18<sup>th</sup> day of November, 2022.

JASON D. WOODBURY  
District Attorney

By:   
JASON D. WOODBURY  
District Attorney  
BENJAMIN R. JOHNSON  
Senior Deputy District Attorney  
Representing Plaintiff

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Office of the Carson City District Attorney, and that on this 18<sup>th</sup> day of November, 2022, I served a true and correct copy of the foregoing **PLAINTIFF'S NRCP 16.1 INITIAL DISCLOSURES** via electronic mail to the following:

John A. Fortin, Esq.  
E-MAIL: [jfortin@mcdonaldcarano.com](mailto:jfortin@mcdonaldcarano.com)

\_\_\_\_\_

# Exhibit 2

Ryan J. Works, Esq., (NSBN 9224)  
John A. Fortin, Esq., (NSBN 15221)  
McDONALD CARANO LLP  
2300 West Sahara Ave, Suite 1200  
Las Vegas, Nevada 89102  
Telephone: (702) 873.4100  
rworks@mcdonaldcarano.com  
jfortin@mcdonaldcarano.com

*Pro Bono Counsel for  
Claimant Sylvia Fred*

**FIRST JUDICIAL DISTRICT COURT**

**CARSON CITY, NEVADA**

In Re:

3587 Desatoya Drive, Carson City, Nevada 89701,  
Carson City, Assessor's Parcel Number: 010-443-  
11.

SYLVIA FRED, an individual,

Counterclaimant,

v.

STATE OF NEVADA ex rel. INVESTIGATION  
DIVISION OF THE NEVADA STATE POLICE  
(TRI-NET NARCOTICS TASK FORCE),

Counterdefendant.

ELVIN FRED, an individual,

Counterclaimant,

v.

STATE OF NEVADA ex rel. INVESTIGATION  
DIVISION OF THE NEVADA STATE POLICE  
(TRI-NET NARCOTICS TASK FORCE),

Counterdefendant.

Case No.: 15 0C 00074 1B  
Dept. No.: 2

**COUNTERCLAIMANT SYLVIA  
FRED'S FIRST SUPPLEMENT TO  
INITIAL DISCLOSURES  
PURSUANT TO NRCP 16.1**

Pursuant to NRCP 16.1, Counterclaimant Sylvia Fred ("Sylvia"), by and through her  
counsel of record, the law firm of McDonald Carano LLP, supplements her initial disclosures with  
the information listed in **bold**.

**I. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION.**

1. Sylvia Fred  
c/o  
McDonald Carano LLP  
2300 W. Sahara Ave  
Las Vegas, NV 89102  
Telephone: 702-873-4100

This witness is expected to have knowledge regarding the facts and circumstances surrounding this litigation, including but not limited to the Counterclaim she filed in this action and other facts and circumstances surrounding the claims and defenses in this litigation, including but not limited to the nature of Tri-Net's violation of her constitutional rights and the several torts the agency and its agents committed.

2. Elvin Fred  
c/o  
McDonald Carano LLP  
2300 W. Sahara Ave  
Las Vegas, NV 89102  
Telephone: 702-873-4100

This witness is expected to have knowledge regarding the facts and circumstances surrounding this litigation, including but not limited to Tri-Net's complaint in this action as well as other facts and circumstances surrounding the claims and defenses in this litigation, including but not limited to the nature of Tri-Net's violation of Sylvia's constitutional rights and the several torts the agency and its agents committed.

3. Coley McCann  
c/o  
Carson City District Attorney's Office  
555 Wright Way  
Carson City, NV 89711  
Telephone: 775-887-2072

This witness is expected to have knowledge regarding the facts and circumstances surrounding this litigation, including but not limited to the facts and circumstances regarding Tri-Net's eviction of the Fred Family from the Home and Tri-Net's actions in taking possession of the Home in 2019.

1 4. A NRCP 30(b)(6) representative of the Nevada Department of Public Safety,  
2 Investigation Division, Tri-Net Narcotics Task Force  
3 c/o  
4 Carson City District Attorney's Office  
5 555 Wright Way  
6 Carson City, NV 89711  
7 Telephone: 775-887-2072

8 This witness is expected to have knowledge regarding the facts and circumstances  
9 surrounding this litigation, including but not limited to the facts and circumstances regarding Tri-  
10 Net's eviction of the Fred Family from the Home and Tri-Net's possession of the property from  
11 2019 through 2022.

12 5. A NRCP 30(b)(6) representative of the Carson City Sheriff's Office  
13 c/o  
14 Carson City District Attorney's Office  
15 555 Wright Way  
16 Carson City, NV 89711  
17 Telephone: 775-887-2072

18 This witness is expected to have knowledge regarding the facts and circumstances  
19 surrounding this litigation, including but not limited to the facts and circumstances regarding Tri-  
20 Net's eviction of the Fred Family from the Home and Tri-Net's possession of the property from  
21 2019 through 2022.

22 6. A NRCP 30(b)(6) representative of the Douglas County Sheriff's Office  
23 c/o  
24 Carson City District Attorney's Office  
25 555 Wright Way  
26 Carson City, NV 89711  
27 Telephone: 775-887-2072

28 This witness is expected to have knowledge regarding the facts and circumstances  
surrounding this litigation, including but not limited to the facts and circumstances regarding Tri-  
Net's eviction of the Fred Family from the Home and Tri-Net's possession of the property in 2019  
through 2022.

Sylvia reserves the right to call any witnesses identified by any party in this matter.

Sylvia reserves the right to call any persons and/or entities identified in the course of  
discovery in this matter.

Sylvia reserves the right to amend, supplement, and/or add to this list of witnesses any

other persons and/or entities who may have information relevant to the issues of this case, including without limitation expert, impeachment, and/or rebuttal witnesses.

## **II. DOCUMENTS.**

1. 2012 Real Estate Sales Business Record Documents, Bates-Labeled FRED0001-FRED0020.
2. 2012 Real Estate Sales Business Record Documents, Bates-Labeled FRED0021-FRED0051.
3. 2012 Real Estate Sales Business Record Documents, Bates-Labeled FRED0052-FRED0081.
4. 2012 Real Estate Sales Business Record Documents, Bates-Labeled FRED0082-FRED0106.
5. 2012 Real Estate Sales Business Record Documents, Bates-Labeled FRED0107-FRED0166.
6. 2012 Real Estate Sales Business Record Documents, Bates-Labeled FRED0167-FRED00197.
7. 2012 04 09 and 2012 04 17 Cashier's Checks Documents, Bates-Labeled FRED0198-FRED0199.
8. 2012 05 03 Grant Deed Recorded Documents, Bates-Labeled FRED0200-FRED0202.
9. 2014 08 15 Grant Deed Recorded Documents, Bates-Labeled FRED0203-FRED0206.
10. 2015 04 01 Lis Pendens Recorded Documents, Bates-Labeled FRED0207-FRED0211.
11. 2015 03 31 Quitclaim Deed Recorded Documents, Bates-Labeled FRED0212-FRED0215.
12. 2019 07 10 Amended Default Judgment Recorded Documents, Bates-Labeled FRED0216-FRED0225.
13. 2021 11 24 Moneygram email Documents, Bates-Labeled FRED0226-FRED0227.
14. 2021 12 01 Baldwin State Bank Letter Documents, Bates-Labeled FRED0228.
15. 2022 02 24 Carol Toohey Declaration Documents, Bates-Labeled FRED0229-

- 1 FRED0231.
- 2 16. 2022 03 14 – Video of 3587 Desatoya Drive Documents, Bates-Labeled FRED0232.
- 3 17. 2022 11 08 – Sylvia Fred Declaration Documents, Bates-Labeled FRED0233.
- 4 18. 2019 07 18 – Sylvia Fred Email with C. McCann Documents, Bates-Labeled
- 5 FRED0234-FRED0236.
- 6 19. 2019 08 02 – Sylvia Fred Email with C. McCann Documents, Bates-Labeled
- 7 FRED0237-FRED 0238.
- 8 20. 2019 08 06 – Lockout Order Documents, Bates-Labeled FRED0239.
- 9 21. 2019 08 09 – Sylvia Fred Email with C. McCann Documents, Bates-Labeled
- 10 FRED0240.
- 11 22. 2019 10 09 – Sylvia Fred Email with C. McCann Documents, Bates-Labeled
- 12 FRED0241-FRED0245.
- 13 23. 2021 07 21 –3587 Desatoya Drive Sewer Bill Documents, Bates-Labeled FRED0246.
- 14 24. 2022 03 22 – 3587 Desatoya Drive Public Works Bill Documents, Bates-Labeled
- 15 FRED0247.
- 16 25. Privilege / Redaction Log dated November 9, 2022.
- 17 Entries 1-25, above, are being disclosed via the following [link](#) which will be active for 180
- 18 days from November 9, 2022. Please contact this office if you'd prefer a CD or USB drive to be
- 19 mailed to your office.
- 20 <https://www.dropbox.com/scl/fo/lcta1ivz0b9b95bxgee7/h?dl=0&rlkey=do4d495vrvejya359cq8rylo4>
- 21 **26. Complaint, *Fred v. County of Carson City, et al.*, in the United States District**
- 22 **Court, District of Nevada, Case No. 3:11-cv-00064-HDM-VPC, Bates-Labeled**
- 23 **FRED0248-FRED0258.**
- 24 **27. Docket Report, *Fred v. County of Carson City, et al.*, in the United States District**
- 25 **Court, District of Nevada, Case No. 3:11-cv-00064-HDM-VPC, Bates-Labeled**
- 26 **FRED0259-FRED0264.**
- 27 **28. Answer, *Fred v. County of Carson City, et al.*, in the United States District Court,**
- 28 **District of Nevada, Case No. 3:11-cv-00064-HDM-VPC, Bates-Labeled**



FRED0265-FRED0273.

29. Stipulation and Order for Dismissal with Prejudice, *Fred v. County of Carson City, et al.*, in the United States District Court, District of Nevada, Case No. 3:11-cv-00064-HDM-VPC, Bates-Labeled FRED0274-FRED0275.

30. Stipulation and Order for Dismissal with Prejudice as to the Carson Nugget, Inc., *Fred v. County of Carson City, et al.*, in the United States District Court, District of Nevada, Case No. 3:11-cv-00064-HDM-VPC, Bates-Labeled FRED0276-FRED0277.

31. Complaint, *Sylvia Fred v. Andrew Rasor, et al.*, in the First Judicial District Court, Carson City, Nevada, Case No. 21 RP 00005 1B, FRED0278-FRED0297.

32. Motion for Temporary Restraining Order and Preliminary Injunction, *Sylvia Fred v. Andrew Rasor, et al.*, in the First Judicial District Court, Carson City, Nevada, Case No. 21 RP 00005 1B, FRED0298-FRED0363.

33. Stipulation and Order Regarding Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction, *Sylvia Fred v. Andrew Rasor, et al.*, in the First Judicial District Court, Carson City, Nevada, Case No. 21 RP 00005 1B, FRED0364-FRED0367.

34. Property Tax details re Parcel ID 010-443-11, Bates-Labeled FRED0368-FRED0376.

35. Photos of 3587 Desatoya Drive taken on August 12, 2019, Bates-Labeled FRED0377-FRED0404.

36. Video of 3587 Desatoya Drive taken on August 12, 2019, Documents, Bates-Labeled FRED0405.

Entries 26-36, above, are being disclosed via the following [link](#) which will be active for 180 days from December 6, 2022. Please contact this office if you'd prefer a CD or USB drive to be mailed to your office.

<https://www.dropbox.com/scl/fo/xrni6kolvaecub27dj0zp/h?dl=0&rlkey=xpwh9rvbkhnzcs2obhq1o6r8z>

37. Sylvia reserves the right to supplement this production.

1 38. Sylvia reserves the right to use all documents and/or other evidence identified by any  
2 party in connection with this matter.

3 39. Sylvia reserves the right to use all documents and/or other evidence identified in the  
4 court of discovery in this matter.

5 **III. COMPUTATION OF DAMAGES.**

6 Sylvia seeks damages described in the Complaint. Those damages are approximated to  
7 be at least \$800,000 based on the statutory cap provided under NRS 41.035 not including the  
8 constitutional damages she is seeking. Expert disclosures have not been made and Sylvia will  
9 supplement this disclosure as she obtains information regarding the same. In addition, Sylvia also  
10 seeks pre- and post-judgment interest, attorneys' fees and costs, and other damages according to  
11 proof.

12 **IV. INSURANCE AGREEMENTS.**

13 Sylvia is not aware at this time of any insurance agreements that may be liable to satisfy  
14 part or all of a judgment.

15 Sylvia reserves the right to supplement this disclosure to add additional documents and/or  
16 name(s) of person(s) who may have relevant information, as discovery continues.

17 DATED this 8th day of December 2022.

18 McDONALD CARANO LLP

19 By: 

20 Ryan J. Works, Esq., (NSBN 9224)  
21 John A. Fortin, Esq., (NSBN 15221)  
22 2300 West Sahara Ave, Suite 1200  
23 Las Vegas, Nevada 89102  
24 rworks@mcdonaldcarano.com  
25 jfortin@mcdonaldcarano.com

26 *Pro Bono Counsel for*  
27 *Claimant Elvin Fred*  
28

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDONALD CARANO LLP and that on this 8th day of December 2022, I caused to be delivered via email true and correct copies of the above **COUNTERCLAIMANT SYLVIA FRED'S FIRST SUPPLEMENT TO INITIAL DISCLOSURES PURSUANT TO NRCP 16.1** to the following:

CARSON CITY DISTRICT ATTORNEY  
JASON D. WOODBURY (NSBN 6870)  
District Attorney  
BENJAMIN R. JOHNSON (NSBN 10632)  
Senior Deputy District Attorney  
885 East Musser Street  
Suite 2030  
Carson City, Nevada 89701  
E-mail: jwoodbury@carson.org  
bjohnson@carson.org

*Counsel for State of Nevada ex rel.  
Investigation Division of The Nevada State Police  
(Tri-Net Narcotics Task Force)*

  
An employee of McDonald Carano LLP

# Exhibit 3

1 Ryan J. Works, Esq. (NSBN 9224)  
2 John A. Fortin, Esq. (NSBN 15221)  
3 McDONALD CARANO LLP  
4 2300 West Sahara Avenue, Suite 1200  
5 Las Vegas, Nevada 89102  
6 Telephone: (702) 873-4100  
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8 [jfortin@mcdonaldcarano.com](mailto:jfortin@mcdonaldcarano.com)

9 *Pro Bono Counsel for*  
10 *Claimant Sylvia Fred*

**FIRST JUDICIAL DISTRICT COURT**

**CARSON CITY, NEVADA**

11 In Re:  
12 3587 Desatoya Drive, Carson City, Nevada  
13 89701, Carson City, Assessor's Parcel  
14 Number: 010-443-11.

Case No.: 15 0C 00074 1B  
Dept. No.: 2

15 SYLVIA FRED, an individual,  
16 Counterclaimant,  
17 v.  
18 STATE OF NEVADA ex rel.  
19 INVESTIGATION DIVISION OF THE  
20 NEVADA STATE POLICE (TRI-NET  
21 NARCOTICS TASK FORCE),  
22 CounterTri-Net,

**SYLVIA FRED'S FIRST REQUEST FOR  
PRODUCTION OF DOCUMENTS TO  
STATE OF NEVADA EX REL.  
INVESTIGATION DIVISION OF THE  
NEVADA STATE POLICE**

23 ELVIN FRED, an individual,  
24 Counterclaimant,  
25 v.  
26 STATE OF NEVADA ex rel.  
27 INVESTIGATION DIVISION OF THE  
28 NEVADA STATE POLICE (TRI-NET  
NARCOTICS TASK FORCE),  
CounterTri-Net,

29 Pursuant to Rules 26 and 34 of the Nevada Rules of Civil Procedure, Claimant Sylvia Fred  
30 ("Sylvia"), by and through counsel, hereby serves the following First Set of Requests for Production  
31 of Documents ("Document Requests") to the State of Nevada *ex rel.* Investigation Division of the  
32 Nevada State Police (Tri-Net Narcotics Task Force) ("Tri-Net"), and asks that Tri-Net respond in  
33 writing within thirty (30) days of the date of service, to McDonald Carano LLP, 2300 West Sahara

1 Avenue, Suite 1200, Las Vegas, Nevada 89102. These Document Requests are continuing in nature  
2 and Tri-Net must timely supplement the answers to them under Federal Rule 26(e) whenever a  
3 response is in some material respect incomplete or incorrect.

4 **DEFINITIONS**

5 1. The terms “Tri-Net,” “You” or “Your” means and refers to the State of Nevada *ex*  
6 *rel.* Investigation Division of the Nevada State Police (Tri-Net Narcotics Task Force) (“Tri-Net”),  
7 and includes any partners including the Carson City Sheriff’s Office, the Douglas County Sheriff’s  
8 Office, and the Nevada State Police but not limited to, agents, employees, counsel, trustees,  
9 affiliates, successors and any other persons or entities under his control or direction, or acting on its  
10 behalf, regardless of affiliation or employment, individually or collectively, whichever makes the  
11 request more inclusive.

12 2. The term “Claimant” means and refers to the statutory definition as defined by the  
13 Legislature under NRS 179.1158.

14 3. “Communication” means the transfer of information from a person or entity, place,  
15 location, format, or medium to another person or entity, place, location, format, or medium, without  
16 regard to the means employed to accomplish such transfer of information, but including without  
17 limitation oral, written and electronic information transfers; each such information transfer, if  
18 interrupted or otherwise separated in time, is a separate communication.

19 4. “Document” is defined to be synonymous in meaning and equal or exceeding in scope  
20 the usage of this term in NRCP 34(a). It includes images, words and symbols that are electronically  
21 stored and which, if printed on paper, would be the text of a document. It also means all written or  
22 graphic matter of every kind or description however produced or reproduced whether in draft, in  
23 final, original or reproduction, signed or unsigned, whether or not now in existence, and regardless  
24 of whether approved, sent, received, redrafted or executed, and includes without limiting the  
25 generality of its meaning all correspondence, telegrams, notes, e-mail, video sound recordings of  
26 any type of communication(s), conversation(s), meeting(s), or conference(s), minutes of meetings,  
27 memoranda, interoffice communications, intra office communications, notations, correspondence,  
28 diaries, desk calendars, appointment books, reports, studies, analyses, summaries, results of

1 investigations or tests, reviews, contracts, agreements, working papers, tax returns, statistical  
2 records, ledgers, books of account, vouchers, bank checks, bank statements, invoices, receipts,  
3 records, business records, photographs, tape or sound recordings, maps, charts, photographs, plats,  
4 drawings or other graphic representations, logs, investigators' reports, stenographers' notebooks,  
5 manuals, directives, bulletins, computer data, computer records, or data compilations of any type or  
6 kind of material similar to any of the foregoing however denominated and to whomever addressed.  
7 "Document" shall exclude exact duplicates when originals are available, but shall include all copies  
8 made different from originals by virtue of any writings, notations, symbols, characters, impressions  
9 or any marks thereon.

10 5. The term "Notice" means and refers to the statutory requirements as the Legislature  
11 provided under NRS 179.1171(5) and the Nevada Rules of Civil Procedure.

12 6. The terms "relate to," "related to," "relating to," "relative to," and "in relation to,"  
13 include without limitation "refer to," "summarize," "reflect," "constitute," "concern," "contain,"  
14 "embody," "mention," "show," "comprise," "evidence," "discuss," "describe," or "pertaining to."

15 7. The term "concerning" means and includes without limitation "regarding,"  
16 "pertaining to," "reflecting," "referring to," "relating to," "containing," "embodying," "mentioning,"  
17 "evidencing," "constituting," or "describing."

18 8. The terms "person or entity" and "persons or entities" mean any individual, firm,  
19 corporation, joint venture, partnership, association, fund, other organization, or any collection or  
20 combination thereof.

21 9. The terms "and" and "or" mean "and/or" and shall be construed conjunctively as  
22 necessary to bring within the scope of these requests all information which might otherwise be  
23 construed to be outside the scope of these requests.

24 10. The term "Willful blindness" means and refers to the statutory definition provided  
25 under NRS 179.11635.

**INSTRUCTIONS**

1. These Document Requests seek all requested Documents that are in Tri-Net's possession, custody, and/or control, including without limitation, any records, depositories, or archives.

2. Copies of requested documents that differ from other copies of the document by reason of alterations, margin notes, comments, attached materials, or otherwise shall be considered separate documents and shall be produced separately.

3. Documents that are physically attached to, segregated and/or separated from other documents, whether by inclusion in binders, files, sub-files, or by use of dividers, tabs, or any other method, shall be left so attached, segregated, and/or separated when produced, and shall be retained in the order in which they are maintained, in the file where they are found.

4. If you contend that any document requested to be produced, or any part thereof, is protected from discovery by the attorney-client privilege, work product doctrine, or some other ground or privilege or immunity, as required under Rule 26(b)(5) of the Nevada Rules of Civil Procedure, produce a log that identifies each document withheld and provides at a minimum the following information:

- a. the place, date, and manner of preparation or other recording of the document;
- b. the title and subject matter of the document;
- c. the identity and position of the author, the addressee, and all recipients of the document; and
- d. a statement of (i) the nature of the legal privilege claimed or other reason for withholding the document and (ii) the factual basis for that claim of privilege or other reason for withholding, including the facts establishing any claim of privilege, the facts showing that the privilege has not been waived, the status of the person claiming the privilege, and a statement as to whether the contents of the document are limited to legal advice or contain other subject matter.

5. For each document from which portions were withheld pursuant to instruction 4, identify and produce all other portions of the document not so withheld.

6. Scope of Answers. In answering these Document Requests, you are requested to furnish all information available to you, however obtained, including hearsay, information known by you or in your possession or appearing in your records, information in the possession of your



1 attorneys, your investigators, and all persons acting on your behalf, and not merely the information  
2 known of your own personal knowledge.

3 7. Qualification of Answers. If your answer is in any way qualified, please state the  
4 exact nature and extent of the qualification.

5 8. If additional information or documents become known to Tri-Net regarding any of  
6 these Document Requests following the initial response and submission to Claimant,  
7 supplementation of the response with such information is required.

8 9. For each document produced, identify the specific document request number or  
9 numbers to which the document is responsive.

10 10. Claimant reserves the right to submit additional Document Requests to supplement  
11 this Set.

12 11. If you object to any Request in part, you shall respond fully to the extent not objected  
13 to, and set forth specifically the grounds upon which the objection is based.

14 12. If you cannot answer a Request fully after exercising due diligence to secure the  
15 documents requested, so state and respond to the extent possible, specifying your inability to respond  
16 to the remainder, the reasons therefore, the steps taken to secure the documents that were not  
17 produced, and stating whatever information or knowledge you have concerning the missing  
18 documents. Please also identify the person you believe to have possession of the missing documents,  
19 and the facts upon which you base your response.

20 **RULES OF CONSTRUCTION**

21 1. The terms "relate to," "related to," "relating to," "relative to," and "in relation to,"  
22 include without limitation "refer to," "summarize," "reflect," "constitute," "concern," "contain,"  
23 "embody," "mention," "show," "comprise," "evidence," "discuss," "describe," or "pertaining to."

24 2. The term "concerning" means and includes without limitation "regarding,"  
25 "pertaining to," "reflecting," "referring to," "relating to," "containing," "embodying," "mentioning,"  
26 "evidencing," "constituting," or "describing."

27 3. The term "Home" refers to the real property located at 3587 Desatoya Drive, Carson  
28 City, Nevada 89701.

1           4.       The use of the masculine gender, as used herein, also means the feminine, or neuter,  
2 whichever makes a discovery interrogatory more inclusive.

3           5.       The words “and” and “or” shall be construed conjunctively or disjunctively,  
4 whichever makes a discovery interrogatory more inclusive.

5           6.       The use of the singular form of any word includes the plural and vice versa. The terms  
6 “person or entity” and “persons or entities” mean any individual, firm, corporation, joint venture,  
7 partnership, association, fund, other organization, or any collection or combination thereof.

8                           **REQUESTS FOR PRODUCTION OF DOCUMENTS**

9           **REQUEST FOR PRODUCTION NO. 1:**

10           Please produce and/or identify all Documents and Communications You relied upon in  
11 responding to Sylvia Fred’s First Request for Interrogatories.

12           **REQUEST FOR PRODUCTION NO. 2:**

13           Please produce and/or identify all Documents and Communications You relied upon in  
14 responding to Sylvia Fred’s First Request for Answers.

15           **REQUEST FOR PRODUCTION NO. 3:**

16           Please produce each and every material Document and Communication regarding Your  
17 efforts to find, locate, and/or effectuate proper Notice on every Claimant to this Civil Forfeiture  
18 Proceeding between April 1, 2015, and March 22, 2022, including but not limited to your efforts  
19 during Elvin Fred’s arraignment on June 29, 2015, Elvin Fred’s sentencing on August 24, 2015,  
20 and/or Elvin Fred’s evidentiary hearing on January 20, 2017.

21           **REQUEST FOR PRODUCTION NO. 4:**

22           Please produce each and every material Document and Communication regarding Your  
23 determination that Sylvia Fred should receive Notice of Your April 28, 2015, Notice of Entry of  
24 Order.

25           **REQUEST FOR PRODUCTION NO. 5:**

26           Please produce each and every material Document and Communication regarding Your  
27 determination that Sylvia Fred should not receive Notice of Your April 1, 2015, Complaint for  
28 Forfeiture.

**REQUEST FOR PRODUCTION NO. 6:**

Please produce each and every material Document and Communication regarding Your determination that Sylvia Fred should not receive Notice of Your May 4, 2018, Motion to Lift the Stay.

**REQUEST FOR PRODUCTION NO. 7:**

Please produce each and every material Document and Communication regarding Your determination that Sylvia Fred should not receive Notice of Your July 26, 2018, Notice of Intent to Take Default.

**REQUEST FOR PRODUCTION NO. 8:**

Please produce each and every material Document and Communication regarding Your determination that Sylvia Fred should not receive Notice of Your December 21, 2018, Application for Clerk's Entry of Default.

**REQUEST FOR PRODUCTION NO. 9:**

Please produce each and every material Document and Communication regarding Your determination that Sylvia Fred should not receive Notice of Your January 4, 2019, Default Judgment.

**REQUEST FOR PRODUCTION NO. 10:**

Please produce each and every material Document and Communication regarding Your determination that Sylvia Fred should not receive Notice of Your May 7, 2019, Motion to Amend Default Judgment.

**REQUEST FOR PRODUCTION NO. 11:**

Please produce each and every material Document and Communication regarding Your determination that Sylvia should not receive Notice of Your May 9, 2019, Notice of Entry of Amended Default Judgment.

**REQUEST FOR PRODUCTION NO. 12:**

Please produce each and every material Document and Communication regarding Your investigation and discussion with the Carson City Tax Collector regarding the names, identities, and addresses of the individuals who paid property taxes on the Home from May 4, 2012, until March 22, 2022.

**REQUEST FOR PRODUCTION NO. 13:**

Please produce each and every material Document and Communication regarding Your investigation and discussion with Carson City Utilities regarding the names, identities, and addresses of the individuals who paid the utilities on the Home from May 2012 until March 22, 2022.

**REQUEST FOR PRODUCTION NO. 14:**

Please produce each and every material Document and Communication regarding Your investigation and discussion with Carol Toohey to determine the ownership interests of the Home between February 1, 2015 until March 22, 2022.

**REQUEST FOR PRODUCTION NO. 15:**

Please produce each and every material Document and Communication regarding Your investigation and determination of the ownership of the Home as required under NRS 179.1171(5).

**REQUEST FOR PRODUCTION NO. 16:**

Please produce each and every procedure, policy, and/or manual either formal or informal regarding the care and upkeep of including but not limited to the payment of taxes, payment of utilities, ensuring the property is not inhabited by squatters and/or trespassers for real property involved seized and/or forfeited under NRS 453.301 while litigation remains pending.

**REQUEST FOR PRODUCTION NO. 17:**

Please produce each and every record, log, and/or notes formal or informal taken by You during each and every inspection, check-in, or visit to the Home between July 10, 2019 through March 14, 2022.

**REQUEST FOR PRODUCTION NO. 18:**

Please produce each and every material Document and Communication related to *Elvin Fred v. Carson City, et al.*, Case No. 3:11-CV-0065-HDM-VPC including but not limited to any settlement documents and/or payments.

**REQUEST FOR PRODUCTION NO. 19:**

Please produce each and every material Document and Communication You possess demonstrating Sylvia's Willful blindness related to Elvin's criminal conduct.

**REQUEST FOR PRODUCTION NO. 20:**

Please produce each and every bodycam footage from Your officers documenting their inspection, verification, and assessments of the property at 3587 Desatoya Drive, Carson City, Nevada, 89701 between July 10, 2019, through March 14, 2022.

**REQUEST FOR PRODUCTION NO. 21:**

Please produce the inventory You took of the personal property located inside and/or outside of 3587 Desatoya Drive, Carson City, Nevada 89701 when you took possession of the property in 2019.

**REQUEST FOR PRODUCTION NO. 22:**

Please produce the inventory You took of the personal property located inside and/or outside of 3587 Desatoya Drive, Carson City, Nevada 89701 when you took relinquished possession of the property on March 14, 2022.

**REQUEST FOR PRODUCTION NO. 23:**

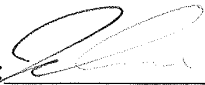
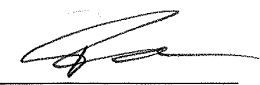
Please produce each and every material Document and Communication related to Your eviction and possession of the property at 3587 Desatoya Drive, Carson City, Nevada 89701 in 2019.

**REQUEST FOR PRODUCTION NO. 24:**

Please produce each and every material Document and Communication related to any aspect of Tri-Net's civil asset forfeiture program.

Dated this 15th day of November, 2022.

McDONALD CARANO LLP

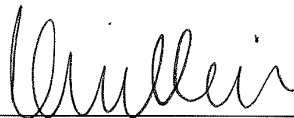
By:    
Ryan J. Works, Esq. (NSBN 9224)  
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[rworks@mcdonaldcarano.com](mailto:rworks@mcdonaldcarano.com)  
[jfortin@mcdonaldcarano.com](mailto:jfortin@mcdonaldcarano.com)

*Pro Bono Counsel for  
Claimant Sylvia Fred*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP and that, on this 15th day of November 2022, I caused to be delivered via email true and correct copies of the above **SYLVIA FRED'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO STATE OF NEVADA EX REL. INVESTIGATION DIVISION OF THE NEVADA STATE POLICE** to the following:

Investigation Division of the Department of Public Safety  
State of Nevada  
(Tri-Net Narcotics Task Force)  
555 Wright Way  
Carson City, Nevada 89711  
[jwoodbury@carson.org](mailto:jwoodbury@carson.org)  
[bjohnson@carson.org](mailto:bjohnson@carson.org)



An employee of McDonald Carano LLP

# Exhibit 4

Ryan J. Works, Esq. (NSBN 9224)  
John A. Fortin, Esq. (NSBN 15221)  
McDONALD CARANO LLP  
2300 West Sahara Avenue, Suite 1200  
Las Vegas, Nevada 89102  
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*Pro Bono Counsel for  
Claimant Sylvia Fred*

**FIRST JUDICIAL DISTRICT COURT  
CARSON CITY, NEVADA**

In Re:  
  
3587 Desatoya Drive, Carson City, Nevada  
89701, Carson City, Assessor's Parcel  
Number: 010-443-11.

Case No.: 15 OC 00074 1B  
Dept. No.: 2

SYLVIA FRED, an individual,

Counterclaimant,

v.

STATE OF NEVADA ex rel.  
INVESTIGATION DIVISION OF THE  
NEVADA STATE POLICE (TRI-NET  
NARCOTICS TASK FORCE),

Counterdefendant,

**SYLVIA FRED'S FIRST REQUEST FOR  
ADMISSIONS TO STATE OF NEVADA  
EX REL. INVESTIGATION DIVISION OF  
THE NEVADA STATE POLICE**

ELVIN FRED, an individual,

Counterclaimant,

v.

STATE OF NEVADA ex rel.  
INVESTIGATION DIVISION OF THE  
NEVADA STATE POLICE (TRI-NET  
NARCOTICS TASK FORCE),

CounterTri-Net,

Pursuant to Rules 26 and 36 of the Nevada Rules of Civil Procedure, Claimant Sylvia Fred ("Sylvia"), by and through counsel, hereby serves the following First Requests for Admissions to the State of Nevada *ex rel.* Investigation Division of the Nevada State Police (Tri-Net Narcotics Task Force) ("Tri-Net"). Tri-Net shall admit or deny the following statements, and serve those



1 responses on Plaintiff's counsel, McDonald Carano LLP, 2300 West Sahara Avenue, Suite 1200,  
2 Las Vegas, Nevada 89102, within thirty (30) days of the date of service.

3 **DEFINITIONS**

4 1. The terms "you," and "yours," means and refers to State of Nevada ex rel.  
5 Investigation Division of The Nevada State Police (Tri-Net Narcotics Task Force) ("State of  
6 Nevada") and includes any officers, directors, partners, agents, employees, accountants, counsel,  
7 parent organization(s), subsidiaries, predecessor(s) in interest, and any other persons or entities  
8 under his direction or control or under the direction or control of any of the foregoing, or acting on  
9 behalf of any of the foregoing, regardless of affiliation or employment.

10 2. "Communication" means the transfer of information from a person or entity, place,  
11 location, format, or medium to another person or entity, place, location, format, or medium, without  
12 regard to the means employed to accomplish such transfer of information, but including without  
13 limitation oral, written and electronic information transfers; each such information transfer, if  
14 interrupted or otherwise separated in time, is a separate communication.

15 3. "Document" is defined to be synonymous in meaning and equal or exceeding in scope  
16 the usage of this term in NRCP 34(a). It includes images, words and symbols that are electronically  
17 stored and which, if printed on paper, would be the text of a document. It also means all written or  
18 graphic matter of every kind or description however produced or reproduced whether in draft, in  
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20 of whether approved, sent, received, redrafted or executed, and includes without limiting the  
21 generality of its meaning all correspondence, telegrams, notes, e-mail, video sound recordings of  
22 any type of communication(s), conversation(s), meeting(s), or conference(s), minutes of meetings,  
23 memoranda, interoffice communications, intra office communications, notations, correspondence,  
24 diaries, desk calendars, appointment books, reports, studies, analyses, summaries, results of  
25 investigations or tests, reviews, contracts, agreements, working papers, tax returns, statistical  
26 records, ledgers, books of account, vouchers, bank checks, bank statements, invoices, receipts,  
27 records, business records, photographs, tape or sound recordings, maps, charts, photographs, plats,  
28 drawings or other graphic representations, logs, investigators' reports, stenographers' notebooks,

1 manuals, directives, bulletins, computer data, computer records, or data compilations of any type or  
2 kind of material similar to any of the foregoing however denominated and to whomever addressed.  
3 “Document” shall exclude exact duplicates when originals are available, but shall include all copies  
4 made different from originals by virtue of any writings, notations, symbols, characters, impressions  
5 or any marks thereon.

6 4. The “Home” means and refers to the real property located at 3587 Desatoya Drive,  
7 Carson City, Nevada 89701.

### 8 **INSTRUCTIONS**

9 1. In accordance with Rule 36 of the Nevada Rules of Civil Procedure, you shall  
10 specifically admit or deny the statements contained herein, or set forth in detail the reasons why you  
11 cannot admit or deny. You may not give lack of information or knowledge as a reason for failure to  
12 admit or deny unless after you have made a reasonable and diligent attempt to obtain information  
13 sufficient to enable you to admit or deny, you still have inadequate information to admit or deny.  
14 You may not object to a Request on the sole ground that the requested admission presents a genuine  
15 issue for trial.

16 2. If you deny any Request, your denial must fairly respond to the substance of the  
17 Request, and when good faith requires that you qualify your answer or deny only a part of a Request,  
18 you must admit those parts of the Request that are true or deny those parts of the Request that are  
19 false, and either deny or admit, respectively, the remainder.

20 3. All other requirements of Rules 26 and 36 of the Federal Rules of Civil Procedure  
21 are hereby incorporated by reference

### 22 **RULES OF CONSTRUCTION**

23 1. The terms “relate to,” “related to,” “relating to,” “relative to,” and “in relation to,”  
24 include without limitation “refer to,” “summarize,” “reflect,” “constitute,” “concern,” “contain,”  
25 “embody,” “mention,” “show,” “comprise,” “evidence,” “discuss,” “describe,” or “pertaining to.”

26 2. The term “concerning” means and includes without limitation “regarding,”  
27 “pertaining to,” “reflecting,” “referring to,” “relating to,” “containing,” “embodying,” “mentioning,”  
28 “evidencing,” “constituting,” or “describing.”

1           3.       The use of the masculine gender, as used herein, also means the feminine, or neuter,  
2 as necessary to bring within the scope of these requests all information which might otherwise be  
3 construed to be outside the scope of these requests.

4           4.       The terms “person or entity” and “persons or entities” mean any individual, firm,  
5 corporation, joint venture, partnership, association, fund, other organization, or any collection or  
6 combination thereof.

7           5.       The terms “and” and “or” mean “and/or” and shall be construed conjunctively as  
8 necessary to bring within the scope of these requests all information which might otherwise be  
9 construed to be outside the scope of these requests.

10          6.       The use of the singular form of any word includes the plural and vice versa. The terms  
11 “person or entity” and “persons or entities” mean any individual, firm, corporation, joint venture,  
12 partnership, association, fund, other organization, or any collection or combination thereof.

13                               **REQUESTS FOR ADMISSIONS**

14           **REQUEST FOR ADMISSION NO. 1:**

15                   Please admit that You took constructive possession of the Home on July 10, 2019.

16           **REQUEST FOR ADMISSION NO. 2:**

17                   Please admit that You took actual possession of the Home in 2019.

18           **REQUEST FOR ADMISSION NO. 3:**

19                   Please admit that You physically occupied the Home from 2019 until March 14, 2022.

20           **REQUEST FOR ADMISSION NO. 4:**


21                   Please admit that You evicted the Fred’s from the Home in 2019 and returned possession on  
22 March 14, 2022.

23           **REQUEST FOR ADMISSION NO. 5:**

24                   Please admit that You entered the May 9, 2019, Notice of Entry of Default Judgement into  
25 the Home’s chain of title on July 10, 2019.

1 Dated this 15th day of November, 2022.

2 McDONALD CARANO LLP

3  
4 By: 

5 Ryan J. Works, Esq. (NSBN 9224)  
6 John A. Fortin, Esq. (NSBN 15221)  
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10 [jfortin@mcdonaldcarano.com](mailto:jfortin@mcdonaldcarano.com)

11 *Pro Bono Counsel for*  
12 *Claimant Sylvia Fred*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP and that, on this 15th day of November 2022, I caused to be delivered via email true and correct copies of the above **SYLVIA FRED'S FIRST REQUEST FOR ADMISSIONS TO STATE OF NEVADA EX REL. INVESTIGATION DIVISION OF THE NEVADA STATE POLICE** to the following:

Investigation Division of the Department of Public Safety  
State of Nevada  
(Tri-Net Narcotics Task Force)  
555 Wright Way  
Carson City, Nevada 89711  
[jwoodbury@carson.org](mailto:jwoodbury@carson.org)  
[bjohnson@carson.org](mailto:bjohnson@carson.org)

  
An employee of McDonald Carano LLP

# Exhibit 5

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*Pro Bono Counsel for  
Claimant Sylvia Fred*

**FIRST JUDICIAL DISTRICT COURT  
CARSON CITY, NEVADA**

In Re:  
3587 Desatoya Drive, Carson City, Nevada  
89701, Carson City, Assessor's Parcel  
Number: 010-443-11.

Case No.: 15 OC 00074 1B  
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SYLVIA FRED, an individual,

Counterclaimant,

v.

STATE OF NEVADA ex rel.  
INVESTIGATION DIVISION OF THE  
NEVADA STATE POLICE (TRI-NET  
NARCOTICS TASK FORCE),

Counterdefendant,

**SYLVIA FRED'S FIRST SET OF  
INTERROGATORIES TO STATE OF  
NEVADA EX REL. INVESTIGATION  
DIVISION OF THE NEVADA STATE  
POLICE**

ELVIN FRED, an individual,

Counterclaimant,

v.

STATE OF NEVADA ex rel.  
INVESTIGATION DIVISION OF THE  
NEVADA STATE POLICE (TRI-NET  
NARCOTICS TASK FORCE),

CounterTri-Net,

Pursuant to Rules 26 and 33 of the Nevada Rules of Civil Procedure, Claimant Sylvia Fred ("Sylvia") hereby requests that the State of Nevada *ex rel.* Investigation Division of the Nevada State Police (Tri-Net Narcotics Task Force) ("Tri-Net") respond in writing and under oath within thirty (30) days of the date of service, to McDonald Carano LLP, 2300 West Sahara Avenue, Suite 1200, Las Vegas, Nevada 89102. These Interrogatories are continuing in nature and Tri-Net must timely

1 supplement the answers to them under NRCP 26(e) whenever a response is in some material respect  
2 incomplete or incorrect.

3 **DEFINITIONS**

4 1. The terms “you,” and “yours,” means and refers to State of Nevada ex rel.  
5 Investigation Division of The Nevada State Police (Tri-Net Narcotics Task Force) (“Tri-Net”) and  
6 includes any officers, directors, partners, agents, employees, accountants, counsel, parent  
7 organization(s), subsidiaries, predecessor(s) in interest, and any other persons or entities under his  
8 direction or control or under the direction or control of any of the foregoing, or acting on behalf of  
9 any of the foregoing, regardless of affiliation or employment.

10 2. “Communicate” means every manner or means of disclosure or transfer or exchange  
11 of information whether orally, by document or otherwise, and whether face to face, in a meeting, by  
12 telephone or other electronic media, mail, personal delivery or otherwise.

13 3. “Communication” means the transfer of information from a person or entity, place,  
14 location, format, or medium to another person or entity, place, location, format, or medium, without  
15 regard to the means employed to accomplish such transfer of information, but including without  
16 limitation oral, written and electronic information transfers. Each such information transfer, if  
17 interrupted or otherwise separated in time, is a separate communication.

18 4. “Data” refers to all written or graphic matter, including all “writings” and  
19 “recordings,” as those terms are defined in NRS 52.225, including all electronic and/or computer  
20 data, disks with computer input, electronic records on computer hard drives, as well as all  
21 “photographs,” as that term is defined in NRS 52.215, however produced or reproduced, of every  
22 kind and description, however denominated by Responding Party, in Responding Party’s actual or  
23 constructive possession, custody, care or control.

24 5. “Document” is defined to be synonymous in meaning and equal or exceeding in scope  
25 to the usage of this term in Nevada Rule of Civil Procedure 34(a). It includes images, words and  
26 symbols that are electronically stored and which, if printed on paper, would be the text of a  
27 document, as well as metadata contained within particular electronic files. It also means all written  
28 or graphic matter of every kind or description however produced or reproduced whether in draft, in



1 final, original or reproduction, signed or unsigned, whether or not now in existence, and regardless  
2 of whether approved, sent, received, redrafted or executed, and includes without limiting the  
3 generality of its meaning all correspondence, telegrams, notes, e-mail, video or sound recordings of  
4 any type of communication(s), conversation(s), meeting(s), or conference(s), minutes of meetings,  
5 memoranda, interoffice communications, intra office communications, notations, correspondence,  
6 diaries, desk calendars, appointment books, reports, studies, analyses, summaries, results of  
7 investigations or tests, reviews, contracts, agreements, working papers, tax returns, statistical  
8 records, ledgers, books of account, vouchers, bank checks, bank statements, invoices, receipts,  
9 records, business records, photographs, tape or sound recordings, maps, charts, photographs, plats,  
10 drawings or other graphic representations, logs, investigators' reports, stenographers' notebooks,  
11 manuals, directives, bulletins, computer data, computer records, or data compilations of any type or  
12 kind of material similar to any of the foregoing however denominated and to whomever addressed.  
13 "Document" shall include but is not limited to any electronically stored data on magnetic or optical  
14 storage media as an "active" file (readily readable by one or more computer applications or forensic  
15 software); any "deleted" but recoverable electronic files on said media; any electronic file fragments  
16 (files that have been deleted and partially overwritten with new data); and slack (data fragments  
17 stored randomly from random access memory on a hard drive during the normal operation of a  
18 computer [RAM slack] or residual data left on the hard drive after new data has overwritten some  
19 but not all of the previously stored data. "Document" shall exclude exact duplicates when originals  
20 are available but shall include all copies made different from originals by virtue of any writings,  
21 notations, symbols, characters, impressions or any marks thereon.

22 6. The term "ESI" means and refers to information created, manipulated,  
23 communicated, stored (on-site and/or off-site), and best utilized in electronic, digital, and/or native  
24 form, including, without limitation, the following: data; metadata; e-mail; word-processing  
25 documents; spreadsheets; presentation documents; graphics; animations; images; audio, video, and  
26 audiovisual recordings; voicemail; text messages; and the like (including attachments to any of the  
27 foregoing) stored on databases, networks, computers, computer systems, servers, archives, backup  
28 or data recovery systems, flash drives, discs, CDs, diskettes, drives, tapes, cartridges, printers, the

1 internet, personal digital assistants, handheld wireless devices, cellular phones, smart phones,  
2 pagers, facsimile machines, telephone systems, voicemail systems, and/or other storage media,  
3 requiring the use of computer hardware and software.

4 7. The term "Home" refers to the real property located at 3587 Desatoya Drive, Carson  
5 City, Nevada 89701.

6 8. The term "Notice" means and refers to the statutory requirements as the Legislature  
7 provided under NRS 179.1171(5) and the Nevada Rules of Civil Procedure.

8 **RULES OF CONSTRUCTION**

9 1. The terms "relate to," "related to," and "relating to" include "refer to," "summarize,"  
10 "reflect," "constitute," "contain," "embody," "mention," "show," "comprise," "evidence,"  
11 "discuss," "describe," or "pertaining to."

12 2. The word "concerning" means "regarding," "referring to," "relating to,"  
13 "containing," "embodying," "mentioning," "evidencing," "constituting," or "describing."

14 3. The use of the masculine gender, as used herein, also means the feminine, or neuter,  
15 whichever makes the request more inclusive.

16 4. The words "and" and "or" shall be construed conjunctively or disjunctively,  
17 whichever makes the request more inclusive.

18 5. The use of the singular form of any word includes the plural and vice versa.

19 6. The terms "person or entity" and "persons or entities" mean any individual, firm,  
20 corporation, joint venture, partnership, association, fund, other organization, or any collection or  
21 combination thereof.

22 **INSTRUCTIONS**

23 1. The terms "identify," "identity," or "identification," when used in reference to a  
24 natural person, mean to give, to the extent known, the person's full name, present or last known  
25 address and telephone number, the present or last known business affiliation, including business  
26 address and telephone number, and their prior or current connection, interest or association with any  
27 Party to this litigation. Once a person has been identified in accordance with this paragraph, only  
28

1 the name of that person need be listed in response to subsequent discovery requesting the  
2 identification of that person.

3 2. The terms “identify,” “identity,” or “identification,” when used in reference to an  
4 entity that is not a natural person, mean to state the entity’s name and describe its form of business  
5 organization (*e.g.*, a Nevada limited liability company), the present or last known address and  
6 telephone number of its principal place of business, its resident agent in Nevada, if any, the identity  
7 of all persons affiliated with the organization having knowledge or documents concerning this  
8 lawsuit, and the entity’s prior or current connection, interest or association with any Party to this  
9 litigation, including without limitation any account names and numbers. Once an entity has been  
10 identified in accordance with this paragraph, only the name of that entity need be listed in response  
11 to subsequent discovery requesting the identification of that entity.

12 3. The terms “identify,” “identity,” or “identification,” when used in reference to a  
13 document, mean to state (a) its title and subject matter; (b) its form (*e.g.*, “canceled check,” “payment  
14 voucher,” “e-mail message,” “letter,” etc.); (c) its date of preparation; (d) the date appearing thereon,  
15 if any; (e) the number of pages comprising the writing; (f) the identity of each person who wrote,  
16 dictated or otherwise participated in the preparation or creation of the document; (g) the identity of  
17 each person who signed, initialed or otherwise marked the document; (h) the identity of each person  
18 to whom the document was addressed; (i) the identity of each person who received the document or  
19 reviewed it; (j) the location of the document; and (k) the identity of each person having custody of  
20 the document. Documents to be identified shall include both documents in your possession, custody,  
21 or control, and all other documents of which you have knowledge. If you at any time had possession  
22 or control of a document called for identification under this Set of Interrogatories and if such  
23 document has been lost, destroyed, purged, or is not presently in your possession or control, you  
24 shall describe the writing, the date of its loss, destruction, purge or separation from possession or  
25 control, the circumstances surrounding its loss, destruction, purge or separation from possession or  
26 control, and identify each person or entity that may have possession or control of a copy or the  
27 original of such document.  
28

4. These interrogatories reach all documents that are known and/or believed by you to exist. If you have knowledge of the existence of documents responsive to these interrogatories but contend that they are not within your possession, custody and/or control, please provide the following information:

- a. A description of the documents, including in your description as much detail as possible;
- b. The identity of the person or entity, including his, her or its address, believed by you to have possession or custody of the document or any copies of them at this time; and
- c. A description of the efforts, if any, you have made to obtain possession or custody of the documents.

5. If you contend that any document requested to be identified or produced, or any part thereof, is protected from discovery by the attorney-client privilege, work product doctrine, or some other ground or privilege or immunity, each such document shall be identified with at least the following information:

- a. A description of the nature of the document, *e.g.*, "letter," "memorandum," "report," "miscellaneous note," etc., and the number of pages it comprises;
- b. The date, and if no date appears thereon, the identification shall so state and shall give the date or approximate date such document was prepared;
- c. A brief description of the subject matter;
- d. The location of the document, including the name, address and organizational affiliation of its custodian;
- e. The name and address of each person who signed, initialed or otherwise marked on such document and the organization, if any, with which each such person was then affiliated;
- f. The name and address of each person who asked that the document be prepared and the organization, if any, with which each such person was then affiliated;
- g. The name and address of each person who prepared or participated in the preparation of such document and the organization, if any, with which each such person was then affiliated;
- h. The name and address of each recipient of such document and the organization, if any, with which each such person was then affiliated;
- i. The name and address of all other distributees or persons who have seen the document and the organization, if any, with which each such person was then affiliated;

j. All attorneys involved in the preparation or receipt of such document, if the attorney-client privilege or work product protection is claimed as to such document;

k. A statement of the grounds for refusal to produce such documents.

6. Whenever you are asked to identify or describe an oral communication, or when an answer to an interrogatory refers to one, with respect to the oral communication:

a. Provide the date and place of the communication and whether it was in person or by telephone;

b. Identify all persons who participated in and/or heard any part of it, sufficient to allow for service of process on such individuals;

c. The organization, if any, with which each participant was then connected;

d. Describe the substance of what each person said in the course of it; and

e. Identify all documents related to such communication.

7. If you contend that any oral communication requested to be identified is protected from discovery by the attorney-client privilege, work product doctrine, or some other ground or privilege or immunity, each such communication shall be identified with at least the following:

a. Provide the date and place of the communication and whether it was in person or by telephone;

b. Identify all persons who participated in and/or heard any part of it, sufficient to allow for service of process on such individuals;

c. The organization, if any, with which each participant was then connected;

d. A brief description of the nature/subject matter of the communication;

e. Identify all documents related to such communication; and

f. A statement of the grounds for refusal to disclose the specifics of the communication.

8. These interrogatories shall be deemed to be continuing, and any additional information and/or documents relating in any way to these interrogatories or your original responses that are acquired subsequent to the date of responding to these interrogatories, up to and including the time of trial, shall be furnished to Plaintiff promptly after such information or documents are acquired as supplemental responses to these interrogatories.

1           9.       These interrogatories call for all information (including information contained in  
2 documents) known or reasonably available to you, your attorneys, investigators, representatives,  
3 agents or others acting on your behalf or under your direction or control, not merely such information  
4 as is known of your own personal knowledge. Each answer must be as complete and straightforward  
5 as the information reasonably available to you permits. If an interrogatory cannot be answered  
6 completely, answer it to the fullest extent possible.

7           10.     If you cannot answer an interrogatory fully after exercising due diligence to secure  
8 the information requested, so state and answer the interrogatory to the extent possible, specifying  
9 your inability to answer the remainder, the reasons therefor, the steps taken to secure the answers to  
10 the unanswered portions, and stating whatever information or knowledge you have concerning the  
11 unanswered portions. Please also identify the person you believe to have such knowledge, what you  
12 believe to be the correct answer, and the facts upon which you base your answers or beliefs.

13           11.     If you consult any persons or entities or documents in answering these interrogatories,  
14 identify in regard to each such interrogatory the persons and/or entities and/or document consulted.

15           12.     Where your answer or a portion thereof is given upon information and belief, other  
16 than personal knowledge, please so state and describe and/or identify the sources of such information  
17 and belief.

18           13.     All other requirements of Rules 26, 33, and 34 of the Nevada Rules of Civil Procedure  
19 are hereby incorporated by reference.

20                               **INTERROGATORIES**

21           **INTERROGATORY NO. 1:**

22                   Please identify Your officer in charge, department head, division officer, and/or any other  
23 term you rely upon for the leadership position of the individual that was responsible for the care,  
24 upkeep, and oversight of the Home between July 10, 2019, through March 14, 2022.

25           **INTERROGATORY NO. 2:**

26                   Please identify and describe each and every material procedure and/or policy both written  
27 and unwritten that You relied from July 2019 through March 2022 to ensure the necessary care,  
28

1 upkeep, and preservation of the Home during Your possession of the Home between July 10, 2019,  
2 through March 14, 2022.

3 **INTERROGATORY NO. 3:**

4 Please identify and detail the names of each and every Tri-Net officer, agent, or employee  
5 involved in the care, upkeep, and preservation of the Home during Your possession of the Home  
6 between July 10, 2019, and March 14, 2022.

7 **INTERROGATORY NO. 4:**

8 Please identify the names of each and every Tri-Net officer, agent, or employee involved in  
9 the eviction and possession of the Home between July 10, 2019, and December 31, 2019.

10 **INTERROGATORY NO. 5:**

11 Please detail and describe each and every material fact related to Your communications and  
12 discussions with counsel regarding Your decision to enter the May 8, 2019, Notice of Entry of  
13 Default into the Home's chain of title on July 10, 2019.

14 **INTERROGATORY NO. 6:**

15 Please detail and describe Your collaborative decision-making process for obtaining a civil  
16 forfeiture between the Carson City Sheriff's Office, the Nevada State Police, and the Douglas  
17 County Sheriff's Office when criminal conduct under NRS 453.301 occurs.

18 **INTERROGATORY NO. 7:**

19 Please detail and describe Your chain of command structure as it relates to the decision-  
20 making process between the individual identified in Interrogatory No. 1 and the Carson City  
21 Sheriff's Office, the Nevada State Police, and the Douglas County Sheriff's Office regarding this  
22 civil forfeiture proceeding for all material decisions.

23 **INTERROGATORY NO. 8:**

24 Please detail and identify every individual and/or individuals employed by You, the Carson  
25 City Sheriff's Office, the Nevada State Police, and/or the Douglas County Sheriff's Office that were  
26 involved in the decision-making process to seek a seizure and forfeiture of the Home in 2015 until  
27 today.

28

**INTERROGATORY NO. 9:**

Please detail each individual and/or individuals employed by You, the Carson City Sheriff's Office, the Nevada State Police, and/or the Douglas County Sheriff's Office that were involved in the decision-making process to obtain actual possession of the Home and evict the Fred's in 2019.

**INTERROGATORY NO. 10:**

Please detail and describe all efforts You undertook in 2015 prior to filing Your April 1, 2015 Complaint for Forfeiture, to identify the source of funds and names of individuals who purchased the Home in 2012 including but not limited to every banking institution related to the purchase, the prior real property owners of the Home, and/or the real estate agents involved in the 2012 sale.

**INTERROGATORY NO. 11:**

Please detail and describe all efforts You undertook to ensure no unauthorized individual and/or individuals trespassed and/or squatted in the Home between July 10, 2019, and March 14, 2022.

**INTERROGATORY NO. 12:**

Please detail and describe all material facts You possess to support your Fourth Affirmative Defense that "Sylvia failed to undertake any reasonable action to mitigate any and all potential or alleged damages."

**INTERROGATORY NO. 13:**

Please detail and describe all material facts You possess to support Your Sixth Affirmative Defense that "TRI-NET's acts of omissions were not the proximate cause of Sylvia's damages, if any."

**INTERROGATORY NO. 14:**

Please detail and describe all material facts You possess to support Your Seventh Affirmative Defense that "Sylvia's damages, if any, were caused by superseding or intervening causes."

**INTERROGATORY NO. 15:**

Please detail and describe all material facts You possess to support Your Tenth Affirmative Defense that "TRI NET acted reasonably and in good faith at all time material hereto."

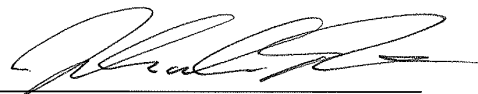


**INTERROGATORY NO. 16:**

Please detail and describe all material facts You possess to support Your Eleventh Affirmative Defense that “The damages, if any, suffered by Sylvia, are the result of the actions, conduct or inaction of third parties not under control of TRI NET, and therefore TRI Net has no liability for such actions, conduct or inaction.”

Dated this 15th day of November, 2022.

McDONALD CARANO LLP

By: 

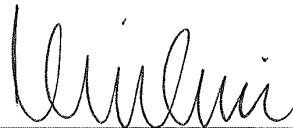
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*Pro Bono Counsel for  
Claimant Sylvia Fred*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP and that, on this 15th day of November 2022, I caused to be delivered via email true and correct copies of the above **SYLVIA FRED'S FIRST SET OF INTERROGATORIES TO STATE OF NEVADA EX REL. INVESTIGATION DIVISION OF THE NEVADA STATE POLICE** to the following:

Investigation Division of the Department of Public Safety  
State of Nevada  
(Tri-Net Narcotics Task Force)  
555 Wright Way  
Carson City, Nevada 89711  
[jwoodbury@carson.org](mailto:jwoodbury@carson.org)  
[bjohnson@carson.org](mailto:bjohnson@carson.org)



An employee of McDonald Carano LLP