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6 *Appellant Pro Se*

FILED

FEB 26 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

7
8 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

9 * * * * *

10 TYRONE KEITH ARMSTRONG,) Supreme Court Case No: 86920
11)
12)

13 Appellant,)
14)
15)

16 vs.)
17)
18)

19 U.S. BANK NATIONAL)
20 ASSOCIATION, as Trustee for)
21 Structured Asset Securities)

22 Corporation Mortgage Pass-Through)
23 Certificates, Series 2007-BC3;)
24 OCWEN LOAN SERVICING, LLC;)

25 PHH MORTGAGE CORPORATION;))
26 WESTERN PROGRESSIVE-)
27 NEVADA, INC.;)

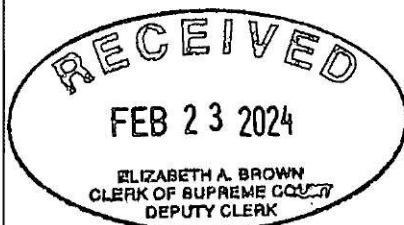
28 Respondents.)
29)
30)

REPLY TO RESPONSE TO
APPELLANT'S VERIFIED MOTION
FOR TRANSCRIPTS TO BE
PREPARED PURSUANT TO NRAP 9

31 **REPLY**

32 ***1. Reply to Relevant Background***

33 Appellant attacked the validity of the 2007 BNC cloud in the lower court and
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1 asserted it is void ab initio because it failed to satisfy all elements of contract
2 formation.¹ The absence of a valid contract between Appellant and BNC renders
3 the 2004 Bank of America deed of trust as the superior title.
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5 On August 11, 2023, this Court entered an order that, “review of the
6 complete record is warranted” [pursuant to NRAP 10(a)(1)]. Under NRAP
7 10(b)(1), the parties shall submit to the clerk of the Supreme Court portions of the
8 trial court record to be used on appeal, ***including all transcripts*** necessary for
9 review.
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11 Under NRAP 11(a)(2), when the court directs transmission of the complete
12 record in cases in which the appellant is proceeding without counsel, the record
13 shall contain each and every paper, pleading and other document filed, or
14 submitted for filing, in the district court. ***The record shall also include any***
15 ***previously prepared transcripts*** of the proceedings in the district court. If the
16 Supreme Court or Court of Appeals should determine that additional transcripts are
17 necessary to its review, the court may order the reporter or recorder who recorded
18 the proceedings to prepare and file the transcripts.
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23 Under NRAP 13(b) deposition transcripts are referenced as being subject to
24 court review.
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27 ¹ *May v. Anderson*, 121 Nev. 668, 670, 119 P.3d 1254, 1256, 2005 Nev. LEXIS 77, *1, 121 Nev.
28 Adv. Rep. 67 (Nev. September 22, 2005) (“Basic contract principles require, for an enforceable contract, an offer and acceptance, meeting of the minds, and consideration.”).

1 NRCP 32(a)(6) provides that, "If a party offers in evidence only part of a
2 deposition, an adverse party may require the offeror to introduce other parts that in
3 fairness should be considered with the part introduced, and any party may itself
4 introduce any other parts."
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6 Here, the deposition transcripts of Roseanne Ehring and the Appellant were
7 previously prepared in the lower court proceedings at the direction of Respondents,
8 as Appellant did not have the ability to pay for those transcripts or likewise
9 introduce them into the trial court record due to indigence. Respondents possessed
10 complete copies of both transcripts and only submitted excerpts. It would not be
11 equitable for Appellant to be denied adequate review of the entire deposition
12 record on this basis.
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16 Appellant amended his complaint in the lower court with respect to fraud
17 and forgery, as the events occurred more than 17 years ago (during the real estate
18 crisis of 2007), witnesses were no longer available and Appellant was not able to
19 plead the claims of fraud and forgery with more particularity. Respondents suggest
20 that since Appellant set aside those claims, he is also barred from contesting
21 whether he was ever present to acknowledge the 2007 BNC loan documents, and
22 that the deposition transcript of the notary is not material or relevant to appeal.
23 Appellant's (uncontradicted) sworn statement that at no time did he execute the
24 2007 BNC loan documents, coupled with the deposition transcript of the notary, at
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1 the very least warrants a hearing to determine whether or not Appellant appeared
2 before the notary in 2007 to execute BNC loan documents. This disputed issue
3 relates directly to the superiority of title. Additionally, there were disputed issues
4 of fact as to whether BNC ever provided consideration to satisfy the 2004 Bank of
5 America loan. Appellant made timely objections to hearsay documents submitted
6 by Respondents as they were obtained from no credible source whose accuracy
7 cannot reasonably be questioned related to the recitals therein.² The lien release
8 and payoff letter from Bank of America were addressed directly to Appellant, who
9 has personal knowledge of the same.

13 ***2. Reply to Respondents' Request to Deny Motion***

14 **a. Relevance**

15 "A plea to quiet title does not require any particular elements, but each party
16 must plead and prove his or her own claim to the property in question, and a
17 plaintiff's right to relief therefore depends on superiority of title."³ Here, Appellant
18 attacked the validity of the deed of trust originated in 2007 by BNC and asserts that
19 the 2004 Bank of America lien remains superior. Appellant did not have the
20 ability to attach his own deposition transcript to the motion for summary judgment
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26 ² ROA:2:316-369; ROA:2:397-400.

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28 ³ *Chapman v. Deutsche Bank Nat'l Trust Co.*, 129 Nev. 314, 316, 302 P.3d 1103, 1104, 2013
Nev. LEXIS 45, *1, 129 Nev. Adv. Rep. 34, 2013 WL 2364178 (Nev. May 30, 2013).

1 in the lower court because Appellant did not yet possess a copy of it. Appellant
2 still does not possess a copy of the notary's deposition transcript, but was present
3 during her deposition, cross-examined her, and observed statements made by the
4 notary that preponderates doubt as to whether Appellant was ever present at all.
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6 **b. The Transcripts Are Exceptions to Hearsay**

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8 The notary's deposition transcript, as well as Appellant's transcript, are
9 exceptions to hearsay under NRS 51.075 and/or perhaps also under NRS 51.125,
10 51.135, 51.145, 51.215. In fairness, Appellant requires complete transcripts
11 pursuant to NRCP 32(a)(6).
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13 **IV. CONCLUSION**

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15 Based on the foregoing, Appellant respectfully requests that the following
16 transcripts be supplemented into the record: (i) hearing of July 31, 2019; (ii)
17 hearing of November 13, 2019; (iii) deposition transcript of Roseanne Ehring; and
18 (iv) deposition transcript of Appellant; and any other and further relief as the Court
19 deems just and proper.
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22 **DATED** this 18th day of February, 2024

23 *//s//Tyrone Keith Armstrong*
24 By: _____
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Appellant Pro Se

VERIFICATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, TYRONE KEITH ARMSTRONG, under penalty of perjury, state:

1. That I am the Appellant in this matter.
2. That I am over 18 years of age and competent to testify to the facts herein.
3. That I have read the above and foregoing *Reply to Response to Appellant's Verified Motion for Transcripts to be Prepared Pursuant to NRAP 9* and know the contents thereof; that the same is true of my own knowledge, except those matters stated therein upon information and belief, and as to those matters I believe them to be true.
4. That I bring this Motion in good faith and not for any improper purpose.

Per NRS 53.045 "I declare under penalty of perjury that the foregoing is true and correct."

DATED this 18th day of February, 2024.

//s//Tyrone Keith Armstrong

TYRONE KEITH ARMSTRONG

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of February, 2024, I served a true and correct copy of the foregoing *Reply to Response to Appellant's Verified Motion for Transcripts to be Prepared Pursuant to NRAP 9*, via electronic mail and/or U.S. Mail, first class postage prepaid, addressed to the following:

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