

THE COURT OF APPEALS OF THE STATE OF NEVADA

NONA TOBIN,

Appellant,

v.

BRIAN CHIESI, an individual; DEBORA CHIESI, an individual; QUICKEN LOANS, INC.; JOEL A. STOKES, an individual; JOEL A. STOCKS and SANDRA F. STOKES as Trustees of the JIMI JACK IRREVOCABLE TRUST; REDROCK FINANCIAL SERVICES; and NATIONSTAR MORTGAGE, LLC,

Respondents.

Electronically Filed
Oct 01 2021 10:28 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No.: 82294

Dist. Court No.: A-19-799890-C

**APPENDIX
VOLUME 22 of 22**

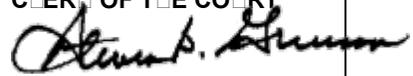
Prepared and Submitted by:

/s/ John W. Thomson
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9 Attorney for Plaintiff Nona Tobin

7 **IN THE EIGHTH DISTRICT COURT OF THE**
8 **STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK**

10 NONA TOBIN, an Individual

11 Plaintiff,

12 vs.

13 BRIAN CHIESI, an individual; DEBORA
14 CHIESI, an individual; QUICKEN LOANS
15 INC.; JOEL A. STOKES, an individual;
16 JOEL A. STOKES and SANDRA STOKES
17 as Trustees of JIMI JACK IRREVOCABLE
18 TRUST; JIMI JACK IRREVOCABLE
19 TRUST; NATIONSTAR MORTGAGE LLC;
20 RED ROCK FINANCIAL SERVICES;
21 DOES I through X inclusive; and ROE
22 CORPORATIONS I through V, inclusive

23 Defendants.

Case No.: A-19-799890-C

Dept No.: 22

CASE APPEAL STATEMENT

24 NONA TOBIN, as an individual, by and through her undersigned attorney for the Case
25 Appeal Statement, states as follows:

- 26 1. Name of appellant filing this case appeal statement:
27 NONA TOBIN, as an individual.
- 28 2. Identify the judge issuing the decision, judgment, or order appealed from:
The Honorable Susan H. Johnson.
3. Identify each appellant and the name and address of counsel for each appellant:

1 NONA TOBIN, an individual, Appellant

2 John W. Thomson, Esq.
3 Nevada Bar No. 5802
4 Thomson Law PC
5 2450 St. Rose Parkway, Suite 120
6 Henderson, Nevada 89074

7 4. Identify each respondent and the name and address of appellate counsel, if known,
8 for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as
9 much and provide the name and address of that respondent's trial counsel):

10 a. Joel A. Stokes, an Individual, Joel A. Stokes and Sandra Stokes, As
11 Trustees Of The Jimijack Irrevocable Trust, And Jimijack Irrevocable Trust,
12 Respondents.

13 Respondents' appellate counsel is unknown. Trial counsel was:

14
15 Joseph Y. Hong, Esq.
16 Nevada Bar No. 5995
17 Hong & Hong Law Office
18 1980 Festival Plaza Drive, Suite 650
19 Las Vegas, Nevada 89135

20 5. Indicate whether any attorney identified above in response to question 3 or 4 is
21 not licensed to practice law in Nevada and, if so, whether the district court granted that attorney
22 permission to appear under SCR 42 (attach a copy of any district court order granting such
23 permission):

24 The attorneys identified above are licensed to practice law in Nevada.

25 6. Indicate whether appellant was represented by appointed or retained counsel in
26 the district court:

27 Appellant was represented by:

28 John W. Thomson, Esq.
Nevada Bar No. 5802

1 Thomson Law PC
2 2450 St. Rose Parkway, Suite 120
3 Henderson, Nevada 89074

4 7. Indicate whether appellant is represented by appointed or retained counsel on
5 appeal:

6 Appellant is represented by retained counsel.

7
8 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and
9 the date of entry of the district court granting such leave:

10 No.

11 9. Indicate the date the proceedings commenced in the district court (e.g., date
12 complaint, indictment, information, or petition was filed):

13 The original Complaint was filed on August 7, 2019, the First Amended
14 Complaint was filed on June 3, 2020.

15
16 10. Provide a brief description of the nature of the action and result in the district
17 court, including the type of judgment or order being appealed and the relief granted by the
18 district court:

19 Nona Tobin filed an action in her individual capacity for quiet title, declaratory relief
20 and equitable relief/unjust enrichment for the excess proceeds of sale, against several
21 defendants, from a defective HOA foreclosure sale and many other statutory and other
22 violations of law.

23
24 The defendants filed a Motion to Dismiss, and several joinders thereto, and submitted
25 unverified evidence to the Court. Instead of hearing the Motion as one for Summary Judgment,
26 the Court ruled that the First Amended Complaint did not survive the Motion to Dismiss and
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1 granted the motion, dismissing the action with prejudice. The Order Granting the Motion to
2 Dismiss has not yet been entered.

3 *Sua sponte*, and without circulating the draft to the parties, on September 6, 2020, the
4 Court issued an Order granting defendants', Joel A. Stokes, an individual, Joel A. Stokes and
5 Sandra Stokes, as Trustees of the Jimijack Irrevocable Trust, and Jimijack Irrevocable Trust,
6 Motion for Attorney Fees and Costs Pursuant to EDCR 7.60(b)(1) and/or (3). Well after the 14-
7 day time limit had passed (see, NRCF 58(e)), the Stokes defendants filed a Notice of Entry of
8 Order on October 8, 2020.

9
10 Appellants are appealing the October 8, 2020 Order because it, *inter alia*: (1) incorrectly
11 applied EDCR 7.60 and NRS 18.010(2)(b) in awarding attorney fees to Respondents; (2) failed
12 to adequately assess the factors enumerated in *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345,
13 349, 455 P.2d 31, 33 (1969) in awarding attorney fees to Respondents; (3) incorrectly awarded
14 certain costs to Respondents; and (4) incorrectly found facts and law not in the record when
15 making the award of attorney fees and costs. Appellants therefore appeal the October 8, 2020
16 Order pursuant to NRAP 3(A)(b)(8).

17
18
19 11. Indicate whether the case has previously been the subject of an appeal to or
20 original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket
21 number of the prior proceeding:

22 This case is currently not the subject of a pending appeal in the Supreme Court.

23
24 12. Indicate whether this appeal involves child custody or visitation:

25 This case does **not** involve child custody or visitation.

26 13. If this is a civil case, indicate whether this appeal involves the possibility of
27 settlement:

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Settlement is possible, but unlikely.

Dated this 9th day of November 2020.

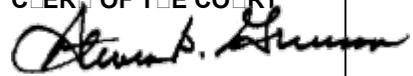
THOMSON LAW PC

/s/ John W. Thomson
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Attorney for Nona Tobin

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Case Appeal Statement** was submitted electronically for filing and/or service with the Eighth Judicial District Court on this 9th day of November 2020. Electronic service of the forgoing document shall be upon all parties listed on the Odyssey eFileNV service contact list.

/s/ Annette Cooper
An Employee of Thomson Law PC



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9 Attorney for Plaintiff Nona Tobin

7 **IN THE EIGHTH DISTRICT COURT OF THE**
8 **STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK**

9 NONA TOBIN, an Individual
10
11 Plaintiff,

Case No.: A-19-799890-C
Dept No.: 22

12 vs.

13 BRIAN CHIESI, an individual; DEBORA
14 CHIESI, an individual; QUICKEN LOANS
15 INC.; JOEL A. STOKES, an individual;
16 JOEL A. STOKES and SANDRA STOKES
17 as Trustees of JIMI JACK IRREVOCABLE
18 TRUST; JIMI JACK IRREVOCABLE
19 TRUST; NATIONSTAR MORTGAGE LLC;
20 RED ROCK FINANCIAL SERVICES;
21 DOES I through X inclusive; and ROE
22 CORPORATIONS I through V, inclusive

23 Defendants.

**NOTICE OF APPEAL
TO THE SUPREME COURT, STATE
OF NEVADA**

21 Notice is hereby given that Plaintiff/Appellant Nona Tobin, by and through her attorney,
22 John W. Thomson, Esq., of Thomson Law PC, does hereby appeal the *Order Granting Motion*
23 *for Attorney's Fees and Costs Filed by Joel A. Stokes, Joel A. Stokes and Sandra Stokes, as*
24 *Trustees of the Jimijack Irrevocable Trust, and Jimijack Irrevocable Trust, Pursuant to EDCR*
25 *7.60(b)(1) and/or (3), Notice of Entry filed on October 8, 2020, in the District Court in and for*
26 *the above-named county and state.*

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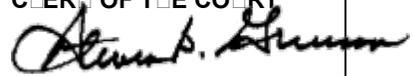
Dated this 9th day of November, 2020

THOMSON LAW PC

/s/ John W. Thomson
JOHN W. THOMSON
Nevada Bar No. 5802
2450 St. Rose Parkway, Suite 120
Henderson, Nevada 89074
Attorney for Nona Tobin

CERTIFICATE OF SERVICE

The undersigned, an employee of Thomson Law PC, hereby certifies that on the 9th day of November 2020, she caused a copy of the **NOTICE OF APPEAL** to be served in accordance with Administrative Order 14.2, to all interested parties, through the Court's Odyssey E-File & Serve system.



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8 Email: johnwthomson@ymail.com
9 Attorney for Plaintiff Nona Tobin

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 NONA TOBIN, an Individual

10 Plaintiff,

11 vs.

12
13 BRIAN CHIESI, an individual; DEBORA
14 CHIESI, an individual; QUICKEN LOANS
15 INC.; JOEL A. STOKES, an individual;
16 JOEL A. STOKES and SANDRA STOKES
17 as Trustees of JIMI JACK IRREVOCABLE
18 TRUST; JIMI JACK IRREVOCABLE
19 TRUST; NATIONSTAR MORTGAGE LLC;
20 RED ROCK FINANCIAL SERVICES;
21 DOES I through X inclusive; and ROE
22 CORPORATIONS I through V, inclusive

23 Defendants.

Case No.: A-19-799890-C
Dept No.: 22

NOTICE OF POSTING OF COST BOND

24 PLEASE TAKE NOTICE that NONA TOBIN posted a cost bond in the amount of
25 \$500.00 on November 9, 2020.

26 DATED this 9th day of November, 2020

27 LAW OFFICE OF JOHN W. THOMSON

28 By: /s/John W. Thomson

JOHN W. THOMSON, ESQ.
Nevada Bar No. 5802
2450 St. Rose Parkway, Suite 120
Henderson, Nevada 89074
Attorney for Plaintiff

1 OGM

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

5 **NONA TOBIN, an individual,**
6
7 **Plaintiff,**

Case No. A-19-799890-C
Dept. No. XXII

8 **Vs.**

9 **BRIAN CHIESTI, an individual;**
10 **DEBORA CHIESTI, an individual;**
11 **QUICKEN LOANS INC.; JOEL A.**
12 **STOKES, an individual; JOEL A.**
13 **STOKES and SANDRA STOKES, as**
14 **Trustees of JIMI JACK IRREVOCABLE**
15 **TRUST; JIMI JACK IRREVOCABLE**
16 **TRUST; NATIONSTAIR MORTGAGE**
17 **LLC; RED ROCK FINANCIAL**
18 **SERVICES; DOES I through X, inclusive;**
19 **and ROE CORPORATIONS I through V,**
20 **inclusive,**

21 **Defendants.**

22 **ORDER GRANTING MOTION FOR ATTORNEY'S FEES AND COSTS**

23 This matter, concerning the Motion for Attorney's Fees and Costs filed by Defendants
24 BRIAN CHIESI, DEBORA CHIESI and QUICKEN LOANS, INC. on September 16, 2020, came
25 on for hearing on the 29th day of October 2020 at the hour of 9:00 a.m. before Department XXII of
26 the Eighth Judicial District Court, in and for Clark County, Nevada with JUDGE SUSAN
27 JOHNSON presiding; Plaintiff NONA TOBIN personally attended, and appeared by and through
28 her attorney, JOHN W. THOMSON, ESQ.; Defendants BRIAN CHIESI, DEBORA CHIESI and
QUICKEN LOANS, INC. appeared by and through their attorney, BRITTANY WOOD, ESQ. of the
law firm, MAURICE WOOD; and Defendants JOEL A. STOKES, JOEL A STOKES AND

1 SANDRA STOKES, AS TRUSTEES OF THE JIMIACK IRREVOCABLE TRUST and
2 JIMIACK IRREVOCABLE TRUST appeared by and through their attorney, JOSEPH Y HONG,
3 ESQ. of the law firm, HONG & HONG LAW OFFICE. Having reviewed the papers and pleadings
4 on file herein, heard oral arguments of the lawyers and taken this matter under advisement, this
5 Court makes the following Findings of Fact and Conclusions of Law:

6 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

7
8 **1.** For ease and convenience, this Court repeats its findings and procedural history has
9 set forth within its Order filed September 6, 2020. On June 16, 2015, Defendants JOEL A.
10 STOKES, JOEL A. STOKES AND SANDRA STOKES, AS TRUSTEES OF THE JIMIACK
11 IRREVOCABLE TRUST filed their Complaint against BANK OF AMERICA¹ and SUN CITY
12 ANTHEM COMMUNITY ASSOCIATION, INC., seeking, *inter alia*, to quiet title to their
13 residence, 2763 White Sage, Henderson, Nevada 89052. *See Stokes v. Bank of America*, Case
14 No. A-15-720032-C, filed in Department XXXI, Eighth Judicial District Court, in and for
15 Clark County, Nevada. Subsequently, on May 17, 2016, NATIONSTAR MORTGAGE,
16 LLC intervened, and filed its Counter-Claim against, *inter alia*, JIMIACK IRREVOCABLE
17 TRUST.² Further, a Complaint previously filed by NATIONSTAR MORTGAGE, LLC
18 against OPPORTUNITY HOMES, LLC in another action, Case No. A-16-730078-C, on
19 January 11, 2016 was consolidated with the older case filed by MR. STOKES and the
20 Trustees of JIMIACK IRREVOCABLE TRUST in Department XXXI.
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24 . . .

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26 _____
27 ¹NATIONSTAR MORTGAGE, LLC thereafter was permitted to intervene in that it was BANK OF
28 AMERICA'S successor-in-interest.

²The Counter-Claim was also filed against OPPORTUNITY HOMES, LLC, F. BONDURANT, LLC as well as
DOE and ROE defendants. In this Court's view, the pleading lodged against these "Counter-Defendants" was
inappropriately called a "counter-claim," as these parties were not listed as plaintiffs in the primary action.

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2. In July 2016, Plaintiff NONA TOBIN and STEVEN HANSEN, as individuals, filed their Motion to Intervene in Case No. A-16-730078-C, claiming MS. TOBIN was a Trustee and MR. HANSEN was a beneficiary of the GORDON B. HANSEN TRUST, the entity that owned the subject property until the homeowners’ association foreclosure sale took place. Such motion was denied without prejudice given MS. TOBIN and MR. HANSEN, individually, lacked standing to sue or intervene in the action. MS. TOBIN eventually was permitted to intervene as Trustee of the GORDON B. HANSEN TRUST in early 2017. MS. TOBIN thereafter filed her Counter-Claim against MR. STOKES and JIMI JACK IRREVOCABLE TRUST and Cross-Claims against SUN CITY ANTHEM COMMUNITY ASSOCIATION, OPPORTUNITY HOMES, INC. and F. BONDURANT, LLC. Of interest here, MS. TOBIN identified herself interchangeably as an individual and trustee throughout the pleadings, an error noted by JUDGE JOANNA KISHNER in her Findings of Fact, Conclusions of Law and Judgment filed June 24, 2019, pp. 4 and 8.

3. On April 17, 2019, JUDGE KISHNER granted summary judgment in favor of SUN CITY ANTHEM COMMUNITY ASSOCIATION, INC. as it held a valid homeowners’ association foreclosure sale which terminated the interest of GORDON B. HANSEN TRUST within the subject property and MS. TOBIN showed no reason such as “fraud,” “oppression” or “malice” for the sale to be set aside. Further, JUDGE KISHNER noted MS. TOBIN, as an individual, had no standing to sue and papers identifying her as a plaintiff suing individually were stricken. On June 5 and 6, 2019, a bench trial was heard by JUDGE KISHNER with respect to the claims of MS. TOBIN, as Trustee of the GORDON B. HANSEN TRUST against, *inter alia*, MR. STOKES and the JIMI JACK IRREVOCABLE TRUST. After hearing the evidence, that Court issued Findings of Fact, Conclusions of Law and Judgment in favor of MR. STOKES and the JIMI JACK IRREVOCABLE TRUST, and ordered the *lis pendens* filed by MS. TOBIN against the subject property be expunged.

...

1 The consolidated action heard by Department XXXI is now pending before the Nevada Court of
2 Appeals.

3 4. On or about December 27, 2019, JOEL A. STOKES, JOEL A. STOKES AND
4 SANDRA STOKES, AS TRUSTEES OF THE JIMI JACK IRREVOCABLE TRUST sold the
5 residence, 2763 White Sage, Henderson, Nevada 89052, to Defendants BRIAN CHIESI and
6 DEBORA CHIESI, who acquired the property by borrowing funds from Defendant QUICKEN
7 LOANS, INC. QUICKEN LOANS, INC. recorded a security interest in the subject property by
8 virtue of its loan to the CHIESIS.

9
10 5. MS. TOBIN, in her individual capacity, sued various persons and entities, including
11 MR. and MRS. CHIESI and QUICKEN LOANS, INC. in the instant matter before Department XXII
12 for declaratory relief and to quiet title in the real estate that was the subject of the previous
13 consolidated litigation. Various Defendants filed their Motions to Dismiss, along with Joinders
14 thereto, upon the basis, *inter alia*, MS. TOBIN was judicially estopped from asserting an ownership
15 interest in the subject property and re-litigating the case which had already been adjudged by
16 JUDGE KISHNER. This Court granted the motions and now considers the Motion for Attorney's
17 Fees and Costs filed by MR. and MRS. CHIESI and QUICKEN LOANS, INC. They seek
18 reimbursement of \$9,480.00 in attorney's fees and \$308.99 in costs pursuant to NRS 18.010(2)(b).
19
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21 **CONCLUSIONS OF LAW**

22 1. NRS 18.010(2) specifically provides:

23 2. In addition to the cases where an allowance is authorized by specific statute,
24 the court may make an allowance of attorney's fees to a prevailing party:

25 . . .

26 (b) Without regard to the recovery sought, when the court finds that the
27 claim, counterclaim, cross-claim or third-party complaint or defense of the opposing
28 party was brought or maintained without reasonable ground or to harass the
prevailing party. The court shall liberally construe the provisions of this paragraph in
favor of awarding attorney's fees in all appropriate situations. It is the intent of the
Legislature that the court award attorney's fees pursuant to this paragraph and impose

1 sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all
2 appropriate situations to punish for and deter frivolous or vexatious claims and
3 defenses because such claims and defenses overburden limited judicial resources,
4 hinder the timely resolution of meritorious claims and increase the costs of engaging
5 in business and providing professional services to the public.

6 *Also see* NRS 18.020 (costs *must* be awarded to the prevailing party).

7 **3.** Here, the intervention action and claims of the GORDON B. HANSEN TRUST and
8 MS. TOBIN, whether individually or as Trustee of the Trust, were decided before JUDGE
9 KISHNER in the aforementioned consolidated actions. Specifically, JUDGE KISHNER found MS.
10 TOBIN, as an individual, had no standing to sue as she had no ownership interest in the subject
11 residence. Although JUDGE KISHNER made such a finding, MS. TOBIN continued to
12 interchangeably refer to herself as suing individually and as Trustee. After hearing the matter fully
13 in both summary judgment and a bench trial, JUDGE KISHNER concluded the homeowners'
14 association held a valid foreclosure sale which terminated the property interests of GORDON B.
15 HANSEN TRUST, and title ultimately vested in MR. STOKES, individually, and the JIMI JACK
16 IRREVOCABLE TRUST, and it was these parties who later sold the residence to MR. and MRS.
17 CHIESI. Although a final determination was made in Department XXXI and is now being appealed,
18 MS. TOBIN nevertheless sought another bite at the apple and filed the instant litigation which
19 included the successors-in-interest, the CHIESIS and QUICKEN LOANS, INC. The second lawsuit
20 was a multiplication of the previous proceeding, was precluded by virtue of principles of claim and
21 issue preclusion, and thus, was brought without reasonable ground. It resulted in MR. and MRS.
22 CHIESI and QUICKEN LOANS, INC. unnecessarily incurring attorney's fees and costs in the
23 instant matter.

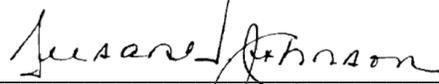
24 **4.** The movants provided this Court their analyses concerning the reasonableness of
25 their attorneys' fees under Brunzell v. Golden Gate National Bank, 84 Nev. 345, 349-350, 455 P.2d
26 31, 33 (1969). This Court has considered all the Brunzell factors, noting the qualities of BRITTANY
27
28

1 WOOD, ESQ.'S and MAURICE WOOD'S advocacy, the character of the work to be done and
2 actually performed by the lawyers, and result. All in all, this Court believes an award of \$8,640.00
3 in attorneys' fees and \$308.99 in costs incurred by MR. and MRS. CHIESI and QUICKEN LOANS,
4 INC. in defending the matter to be reasonable under the circumstances under NRS 18.010(2)(b) and
5 18.020. This Court therefore grants the Motion for Attorney's Fees and Costs.

6 Accordingly, and based upon the foregoing Findings of Fact and Conclusions of Law,
7

8 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** the Motion for Attorney's
9 Fees and Costs filed by Defendants BRIAN CHIESI, DEBORA CHIESI and QUICKEN LOANS,
10 INC. on September 16, 2020 is granted as modified. These Defendants are awarded \$8,640.00 in
11 attorney's fees and \$308.99 in costs as against Plaintiff NONA TOBIN.

12 Dated this 17th day of November, 2020

13 

14 _____
SUSAN JOHNSON, DISTRICT COURT JUDGE

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16 659 EBC F4CD 0F51
17 Susan Johnson
18 District Court Judge
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Nona Tobin, Plaintiff(s)

CASE NO: A-19-799890-C

7 vs.

DEPT. NO. Department 22

8 Joel Stokes, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 11/17/2020

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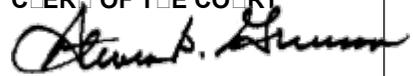
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If indicated below, a copy of the above mentioned filings were also served by mail via United States Postal Service, postage prepaid, to the parties listed below at their last known addresses on 11/18/2020

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9 Attorneys for Defendants,
BRIAN CHIESI AND DEBORA CHIESI,
10 erroneously sued as Brian Chiesti and Debora
Chiesti, and QUICKEN LOANS INC. n/k/a
11 QUICKEN LOANS, LLC

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

14 * * *

15 NONA TOBIN, an individual,
Plaintiff,

16 vs.

17 BRIAN CHIESTI, an individual; DEBORA
18 CHIESTI, an individual; QUICKEN LOANS
INC.; JOEL A. STOKES, an individual;
19 SANDRA STOKES as Trustees of JIMI JACK
IRREVOCABLE TRUST; JIMI JACK
20 IRREVOCABLE TRUST; NATIONSTAR
MORTGAGE LLC; RED ROCK FINANCIAL
21 SERVICES; DOES I through X inclusive; and
ROE CORPORATIONS I through V, inclusive,

22 Defendants.

CASE NO. A-19-799890-C

DEPT NO. 22

NOTICE OF ENTRY OF ORDER

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NOTICE OF ENTRY OF ORDER

Please take notice that an Order was entered with the above Court on the 17th day of November, 2020, a copy of which is attached hereto.

DATED this 17th day of November, 2020.

MAURICE WOOD

By /s/Brittany Wood

AARON R. MAURICE, ESQ.
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Attorneys for Defendants,
BRIAN CHIESI AND DEBORA CHIESI,
erroneously sued as Brian Chiesti and Debora
Chiesti, and QUICKEN LOANS INC., n/k/a
QUICKEN LOANS LLC

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Maurice Wood, and that on the 17th day of November, 2020, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court’s facilities to those parties listed on the Court’s Master Service List.

/s/ Brittany Wood
An Employee of MAURICE WOOD

1 OGM

2
3 **DISTRICT COURT**

4 **CLARK COUNTY, NEVADA**

5 **NONA TOBIN, an individual,**

Case No. A-19-799890-C

6 **Plaintiff,**

Dept. No. XXII

7
8 **Vs.**

9 **BRIAN CHIESTI, an individual;**
10 **DEBORA CHIESTI, an individual;**
11 **QUICKEN LOANS INC.; JOEL A.**
12 **STOKES, an individual; JOEL A.**
13 **STOKES and SANDRA STOKES, as**
14 **Trustees of JIMIACK IRREVOCABLE**
15 **TRUST; JIMIACK IRREVOCABLE**
16 **TRUST; NATIONSTAIR MORTGAGE**
17 **LLC; RED ROCK FINANCIAL**
18 **SERVICES; DOES I through X, inclusive;**
19 **and ROE CORPORATIONS I through V,**
20 **inclusive,**

21 **Defendants.**

22 **ORDER GRANTING MOTION FOR ATTORNEY'S FEES AND COSTS**

23 This matter, concerning the Motion for Attorney's Fees and Costs filed by Defendants
24 BRIAN CHIESI, DEBORA CHIESI and QUICKEN LOANS, INC. on September 16, 2020, came
25 on for hearing on the 29th day of October 2020 at the hour of 9:00 a.m. before Department XXII of
26 the Eighth Judicial District Court, in and for Clark County, Nevada with JUDGE SUSAN
27 JOHNSON presiding; Plaintiff NONA TOBIN personally attended, and appeared by and through
28 her attorney, JOHN W. THOMSON, ESQ.; Defendants BRIAN CHIESI, DEBORA CHIESI and
QUICKEN LOANS, INC. appeared by and through their attorney, BRITTANY WOOD, ESQ. of the
law firm, MAURICE WOOD; and Defendants JOEL A. STOKES, JOEL A STOKES AND

SUSAN H. JOHNSON
DISTRICT JUDGE
DEPARTMENT XXII

1 SANDRA STOKES, AS TRUSTEES OF THE JIMIACK IRREVOCABLE TRUST and
2 JIMIACK IRREVOCABLE TRUST appeared by and through their attorney, JOSEPH Y HONG,
3 ESQ. of the law firm, HONG & HONG LAW OFFICE. Having reviewed the papers and pleadings
4 on file herein, heard oral arguments of the lawyers and taken this matter under advisement, this
5 Court makes the following Findings of Fact and Conclusions of Law:

6 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

7
8 **1.** For ease and convenience, this Court repeats its findings and procedural history has
9 set forth within its Order filed September 6, 2020. On June 16, 2015, Defendants JOEL A.
10 STOKES, JOEL A. STOKES AND SANDRA STOKES, AS TRUSTEES OF THE JIMIACK
11 IRREVOCABLE TRUST filed their Complaint against BANK OF AMERICA¹ and SUN CITY
12 ANTHEM COMMUNITY ASSOCIATION, INC., seeking, *inter alia*, to quiet title to their
13 residence, 2763 White Sage, Henderson, Nevada 89052. *See Stokes v. Bank of America*, Case
14 No. A-15-720032-C, filed in Department XXXI, Eighth Judicial District Court, in and for
15 Clark County, Nevada. Subsequently, on May 17, 2016, NATIONSTAR MORTGAGE,
16 LLC intervened, and filed its Counter-Claim against, *inter alia*, JIMIACK IRREVOCABLE
17 TRUST.² Further, a Complaint previously filed by NATIONSTAR MORTGAGE, LLC
18 against OPPORTUNITY HOMES, LLC in another action, Case No. A-16-730078-C, on
19 January 11, 2016 was consolidated with the older case filed by MR. STOKES and the
20 Trustees of JIMIACK IRREVOCABLE TRUST in Department XXXI.
21
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23

24 . . .

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26 _____
27 ¹NATIONSTAR MORTGAGE, LLC thereafter was permitted to intervene in that it was BANK OF
AMERICA'S successor-in-interest.

28 ²The Counter-Claim was also filed against OPPORTUNITY HOMES, LLC, F. BONDURANT, LLC as well as
DOE and ROE defendants. In this Court's view, the pleading lodged against these "Counter-Defendants" was
inappropriately called a "counter-claim," as these parties were not listed as plaintiffs in the primary action.

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2. In July 2016, Plaintiff NONA TOBIN and STEVEN HANSEN, as individuals, filed their Motion to Intervene in Case No. A-16-730078-C, claiming MS. TOBIN was a Trustee and MR. HANSEN was a beneficiary of the GORDON B. HANSEN TRUST, the entity that owned the subject property until the homeowners’ association foreclosure sale took place. Such motion was denied without prejudice given MS. TOBIN and MR. HANSEN, individually, lacked standing to sue or intervene in the action. MS. TOBIN eventually was permitted to intervene as Trustee of the GORDON B. HANSEN TRUST in early 2017. MS. TOBIN thereafter filed her Counter-Claim against MR. STOKES and JIMI JACK IRREVOCABLE TRUST and Cross-Claims against SUN CITY ANTHEM COMMUNITY ASSOCIATION, OPPORTUNITY HOMES, INC. and F. BONDURANT, LLC. Of interest here, MS. TOBIN identified herself interchangeably as an individual and trustee throughout the pleadings, an error noted by JUDGE JOANNA KISHNER in her Findings of Fact, Conclusions of Law and Judgment filed June 24, 2019, pp. 4 and 8.

3. On April 17, 2019, JUDGE KISHNER granted summary judgment in favor of SUN CITY ANTHEM COMMUNITY ASSOCIATION, INC. as it held a valid homeowners’ association foreclosure sale which terminated the interest of GORDON B. HANSEN TRUST within the subject property and MS. TOBIN showed no reason such as “fraud,” “oppression” or “malice” for the sale to be set aside. Further, JUDGE KISHNER noted MS. TOBIN, as an individual, had no standing to sue and papers identifying her as a plaintiff suing individually were stricken. On June 5 and 6, 2019, a bench trial was heard by JUDGE KISHNER with respect to the claims of MS. TOBIN, as Trustee of the GORDON B. HANSEN TRUST against, *inter alia*, MR. STOKES and the JIMI JACK IRREVOCABLE TRUST. After hearing the evidence, that Court issued Findings of Fact, Conclusions of Law and Judgment in favor of MR. STOKES and the JIMI JACK IRREVOCABLE TRUST, and ordered the *lis pendens* filed by MS. TOBIN against the subject property be expunged.

...

1 The consolidated action heard by Department XXXI is now pending before the Nevada Court of
2 Appeals.

3 4. On or about December 27, 2019, JOEL A. STOKES, JOEL A. STOKES AND
4 SANDRA STOKES, AS TRUSTEES OF THE JIMJACK IRREVOCABLE TRUST sold the
5 residence, 2763 White Sage, Henderson, Nevada 89052, to Defendants BRIAN CHIESI and
6 DEBORA CHIESI, who acquired the property by borrowing funds from Defendant QUICKEN
7 LOANS, INC. QUICKEN LOANS, INC. recorded a security interest in the subject property by
8 virtue of its loan to the CHIESIS.
9

10 5. MS. TOBIN, in her individual capacity, sued various persons and entities, including
11 MR. and MRS. CHIESI and QUICKEN LOANS, INC. in the instant matter before Department XXII
12 for declaratory relief and to quiet title in the real estate that was the subject of the previous
13 consolidated litigation. Various Defendants filed their Motions to Dismiss, along with Joinders
14 thereto, upon the basis, *inter alia*, MS. TOBIN was judicially estopped from asserting an ownership
15 interest in the subject property and re-litigating the case which had already been adjudged by
16 JUDGE KISHNER. This Court granted the motions and now considers the Motion for Attorney's
17 Fees and Costs filed by MR. and MRS. CHIESI and QUICKEN LOANS, INC. They seek
18 reimbursement of \$9,480.00 in attorney's fees and \$308.99 in costs pursuant to NRS 18.010(2)(b).
19
20

21 CONCLUSIONS OF LAW

22 1. NRS 18.010(2) specifically provides:

23 2. In addition to the cases where an allowance is authorized by specific statute,
24 the court may make an allowance of attorney's fees to a prevailing party:

25 . . .

26 (b) Without regard to the recovery sought, when the court finds that the
27 claim, counterclaim, cross-claim or third-party complaint or defense of the opposing
28 party was brought or maintained without reasonable ground or to harass the
prevailing party. The court shall liberally construe the provisions of this paragraph in
favor of awarding attorney's fees in all appropriate situations. It is the intent of the
Legislature that the court award attorney's fees pursuant to this paragraph and impose

1 sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all
2 appropriate situations to punish for and deter frivolous or vexatious claims and
3 defenses because such claims and defenses overburden limited judicial resources,
4 hinder the timely resolution of meritorious claims and increase the costs of engaging
5 in business and providing professional services to the public.

6 *Also see* NRS 18.020 (costs *must* be awarded to the prevailing party).

7 **3.** Here, the intervention action and claims of the GORDON B. HANSEN TRUST and
8 MS. TOBIN, whether individually or as Trustee of the Trust, were decided before JUDGE
9 KISHNER in the aforementioned consolidated actions. Specifically, JUDGE KISHNER found MS.
10 TOBIN, as an individual, had no standing to sue as she had no ownership interest in the subject
11 residence. Although JUDGE KISHNER made such a finding, MS. TOBIN continued to
12 interchangeably refer to herself as suing individually and as Trustee. After hearing the matter fully
13 in both summary judgment and a bench trial, JUDGE KISHNER concluded the homeowners'
14 association held a valid foreclosure sale which terminated the property interests of GORDON B.
15 HANSEN TRUST, and title ultimately vested in MR. STOKES, individually, and the JIMIJACK
16 IRREVOCABLE TRUST, and it was these parties who later sold the residence to MR. and MRS.
17 CHIESI. Although a final determination was made in Department XXXI and is now being appealed,
18 MS. TOBIN nevertheless sought another bite at the apple and filed the instant litigation which
19 included the successors-in-interest, the CHIESIS and QUICKEN LOANS, INC. The second lawsuit
20 was a multiplication of the previous proceeding, was precluded by virtue of principles of claim and
21 issue preclusion, and thus, was brought without reasonable ground. It resulted in MR. and MRS.
22 CHIESI and QUICKEN LOANS, INC. unnecessarily incurring attorney's fees and costs in the
23 instant matter.

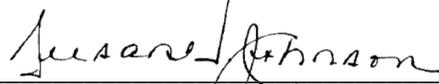
24 **4.** The movants provided this Court their analyses concerning the reasonableness of
25 their attorneys' fees under Brunzell v. Golden Gate National Bank, 84 Nev. 345, 349-350, 455 P.2d
26 31, 33 (1969). This Court has considered all the Brunzell factors, noting the qualities of BRITTANY
27
28

1 WOOD, ESQ.'S and MAURICE WOOD'S advocacy, the character of the work to be done and
2 actually performed by the lawyers, and result. All in all, this Court believes an award of \$8,640.00
3 in attorneys' fees and \$308.99 in costs incurred by MR. and MRS. CHIESI and QUICKEN LOANS,
4 INC. in defending the matter to be reasonable under the circumstances under NRS 18.010(2)(b) and
5 18.020. This Court therefore grants the Motion for Attorney's Fees and Costs.

6 Accordingly, and based upon the foregoing Findings of Fact and Conclusions of Law,
7

8 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** the Motion for Attorney's
9 Fees and Costs filed by Defendants BRIAN CHIESI, DEBORA CHIESI and QUICKEN LOANS,
10 INC. on September 16, 2020 is granted as modified. These Defendants are awarded \$8,640.00 in
11 attorney's fees and \$308.99 in costs as against Plaintiff NONA TOBIN.

12 Dated this 17th day of November, 2020

13 

14 _____
SUSAN JOHNSON, DISTRICT COURT JUDGE

15
16 659 EBC F4CD 0F51
17 Susan Johnson
18 District Court Judge
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Nona Tobin, Plaintiff(s)

CASE NO: A-19-799890-C

7 vs.

DEPT. NO. Department 22

8 Joel Stokes, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 11/17/2020

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12 *Attorneys for Defendant*
13 *Red Rock Financial Services*

14 DISTRICT COURT

15 CLARK COUNTY, NEVADA

16 NONA TOBIN, an individual,

17 Plaintiff,

18 vs.

19 BRIAN CHIESTI, an individual; DEBORA
20 CHIESTI, an individual; QUICKEN
21 LOANS IN.; JOEL A. STOKES, an
22 individual; JOEL A . STOKES AND
23 SANDRA STOKES as Trustees of
24 JIMI JACK IRREVOCABLE TRUST;
25 JIMI JACK IRREVOCABLE TRUST;
26 NATIONSTAR MORTGAGE LLC; RED
27 ROCK FINANCIAL SERVICES, DOES I
28 through X inclusive; and ROE
CORPORATIONS I through V, inclusive

Defendants.

Case No. A-19-799890-C
Dept. 22

**ORDER GRANTING DEFENDANT
RED ROCK FINANCIAL SERVICES'
MOTION TO DISMISS COMPLAINT
AND ALL JOINDERS TO THE
MOTION**

On August 11, 2020 Defendant Red Rock Financial, LLC's ("Red Rock") Motion to Dismiss Nona Tobin's Claims against it and as well as Nationstar Mortgage, LLC's ("Nationstar") Joinder to Red Rock's motion; Joel a Stokes, Joel A. Stokes and Sandra Stokes as trustees of Jimijack Irrevocable Trust, and Jimijack Irrevocable Trust (the "Jimijack Defendants") Joinder to Red Rock's motion; and Brian Chiesi, Debora Chiesi,

1 and Quicken Loans, Inc.'s (the "Chiesi Defendants") Joinder to Red Rock's motion came
2 on for hearing in this Court (collectively all above Defendants shall be referred to as the
3 "Defendants"). Appearing on behalf of Red Rock was counsel of record, Brody Wight
4 appearing on behalf of Nationstar was counsel of record Donna Wittig, appearing on
5 behalf of the Jimijack Defendants was counsel of record Joseph Hong, appearing on
6 behalf of the Chiesi Defendants was counsel of record Brittany Wood, and appearing on
7 behalf of Tobin was counsel of record John Thomson. The Court, having considered the
8 motion, all of the joinders to the motion, the opposition filed by Tobin, the reply filed by
9 Red Rock, and all joinders to the reply, having heard and considered any argument of
10 counsel at the time of hearing, finds and orders as follows.

11 **FACTS**

12 **A. Tobin Unsuccessfully Brings Claims Against the HOA**

13 1. On January 31, 2017, Tobin, in her capacity as the trustee of the Gordon B.
14 Hansen Trust (the "Trust"), filed a Cross-claim against the Sun City Anthem Community
15 Association (the "HOA") in District Court Case No. A-15-720032-C (the "Previous Case"
16 or "Previous Action") claiming the HOA, through its collection agent Red Rock,
17 wrongfully foreclosed on a residence owned by the Trust and located at 2763 White Sage
18 Drive, Henderson, Nevada 89052 (the "Property") on August 15, 2014.

19 2. In that same litigation, Tobin brought claims against the Jimijack
20 Defendants as successors in interest to the party that purchased the Property at the
21 foreclosure.

22 3. Tobin's central allegation in the Previous Case was that Red Rock
23 committed fraud and wrongfully colluded with several parties, including the HOA, in
24 foreclosing on the Property without complying with the requirements of NRS Chapter
25 116 or the HOA's governing documents.

26 4. Tobin's Cross-claim in the Previous Case listed a host of allegations of
27 wrongdoing against Red Rock including claims that Red Rock failed to provide the Trust
28

1 with proper notice of the foreclosure sale and that it frequently misstated the amounts
2 due and owing to the HOA under the HOA lien.

3 5. The Cross-claim in the Previous Case contained a cause of action against
4 the HOA for quiet title and equitable relief claiming that Red Rock's actions caused the
5 foreclosure sale to be null and void as well as causes of action for civil conspiracy, fraud,
6 unjust enrichment, and breach of contract. The allegations of each of those claims
7 centered around Red Rock.

8 6. The Cross-claim in the Previous Case alleged that it was Red Rock that
9 conspired, Red Rock that committed fraud, Red Rock that was unjustly enriched, and
10 Red Rock that breached the contract, but the Cross-claim did not list Red Rock as a party.

11 7. On February 5, 2019, the HOA brought a motion for summary judgment
12 seeking the dismissal of the Trust's Cross-claim. The HOA argued that Red Rock clearly
13 complied with all requirements of law in foreclosing on the Property and carefully
14 presented the court with all of the notices Red Rock provided.

15 8. The Trust filed an opposition attempting to defend its allegations with a
16 declaration from Tobin attached that claimed the Trust owned the Property.

17 9. On April 17, 2019, the court in that case signed an order granting the
18 HOA's motion in its entirety reasoning that "[t]he totality of the facts evidence that the
19 HOA properly followed the processes and procedures in foreclosing upon the Property."

20 10. Tobin, as the trustee to the Trust, also brought identical claims against the
21 Jimijack Defendants, as successors in interest to the party that purchased the Property at
22 the foreclosure, in the Previous Case. After a full trial on the merits, the Court entered a
23 judgment on June 24, 2019, finding in favor of the Jimijack Defendants and against the
24 Trust on all of the Trust's claims in part due to the fact that the claims were precluded by
25 the order granting summary judgment.

1 claims. The Jimijack Defendants' Motion for Attorney's Fees and Costs were pursuant to
2 EDCR Rule 7.60(b)(1) and / or (3).

3 **STANDARD FOR DISMISSAL UNDER NRCP 12(B)(5)**

4 19. Pursuant to NRCP 12(b)(5), a motion to dismiss should be granted upon
5 "failure to state a claim upon which relief can be granted." A motion brought under
6 NRCP 12(b)(5) tests the legal sufficiency of the claim as alleged by the moving party. A
7 motion to dismiss must be granted where it appears to a certainty that the plaintiff is
8 entitled to no relief under any set of facts that could be proved in support of a claim. *Buzz*
9 *Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 (2008); *Blackjack Bonding v. Las Vegas*
10 *Mun. Ct.*, 116 Nev. 1213,1217 (2000); *Simpson v. Mars Inc.*, 113 Nev. 188, 190 (1997).

11 20. In reviewing motions to dismiss, courts may consider the allegations of the
12 Complaint and "may also consider unattached [or attached] evidence on which the
13 complaint necessarily relies if: (1) the complaint refers to the document; (2) the document
14 is central to the plaintiff's claim; and (3) no party questions the authenticity of the
15 document." *Baxter v. Dignity Health*, 357 P.3d 927, 930 (Nev. 2015) (quoting *United States*
16 *v. Corinthian Colleges*, 655 F.3d 984, 999 (9th Cir.2011)).

17 **LEGAL FINDINGS**

18 21. The doctrine of claim preclusion, otherwise known as *res judicata* is
19 designed to prevent plaintiffs and their privies from filing any claims that were or could
20 have been asserted in a different suit. *U. of Nevada v. Tarkanian*, 879 P.2d 1180, 1191–92
21 (Nev. 1994).

22 22. The concept of *nonmutual* claim preclusion extends the doctrine and
23 "embraces the idea that a plaintiff's second suit against a new party should be precluded
24 'if the new party can show good reasons why he should have been joined in the first
25 action and the [plaintiff] cannot show any good reasons to justify a second chance.' "
26 *Weddell v. Sharp*, 350 P.3d 80, 84–85 (Nev. 2015) (quoting 18A Charles Alan Wright, et al.,
27 Federal Practice and Procedure § 4464.1 (2d ed.2002)

1 the time of the previous action, and Tobin has not provided any good reason for not
2 having brought Red Rock in the previous action.

3 28. Because this case meets all of the elements of claim preclusion and
4 nonmutual claim preclusion, those doctrines now bar Tobin from bringing all of her
5 claims against the Defendants.

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EXHIBIT 1

EXHIBIT 1

From: joseph hong yosuphonglaw@gmail.com
Subject: Re: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 30, 2020 at 12:57 PM
To: Brody Wight bwight@kochscow.com



Hi Brody...please affix my e-signature on the Order...

On Thu, Nov 19, 2020 at 10:42 AM Brody Wight <bwight@kochscow.com> wrote:

I am attaching the order granting Red Rock's motion to dismiss and all joinders that has the changes requested by the Court. If you approve of this order, please respond to this email authorizing me to attach your e-signature.

John, I am aware that you do not approve of the order and will attach the letter you sent regarding the order as an exhibit to the order per the Court's request.

Brody Wight
Koch & Scow LLC
11500 S. Eastern Ave., Suite 210
Henderson, Nevada 89052
702-318-5040 (office)
702-318-5039 (fax)
801-645-8978 (cell)
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--

Joseph Y. Hong, Esq
Hong & Hong Law Office
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Email: Yosuphonglaw@gmail.com

From: Brittany Wood bwood@mauricewood.com 
Subject: RE: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 2:00 PM
To: Brody Wight bwight@kochscow.com, donna.wittig@akerman.com, joseph hong yosuphonglaw@gmail.com, melanie.morgan@akerman.com, scott.lachman@akerman.com, J Thomson jwlaw@ymail.com

BW

You have my authority to attach my electronic signature.

Brittany Wood

Partner



9525 Hillwood Drive | Suite 140
Las Vegas, Nevada | 89134
Office: (702) 463-7616 | Fax: (702) 463-6224
bwood@mauricewood.com

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From: Brody Wight <bwight@kochscow.com>
Sent: Thursday, November 19, 2020 10:42 AM
To: donna.wittig@akerman.com; joseph hong <yosuphonglaw@gmail.com>; melanie.morgan@akerman.com; scott.lachman@akerman.com; Brittany Wood <bwood@mauricewood.com>; J Thomson <jwlaw@ymail.com>
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C

I am attaching the order granting Red Rock's motion to dismiss and all joinders that has the changes requested by the Court. If you approve of this order, please respond to this email authorizing me to attach your e-signature.

John, I am aware that you do not approve of the order and will attach the letter you sent regarding the order as an exhibit to the order per the Court's request.

Brody Wight
Koch & Scow LLC
11500 S. Eastern Ave., Suite 210
Henderson, Nevada 89052
702-318-5040 (office)
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bwight@kochscow.com

AA4496

From: Scott.lachman@akerman.com 
Subject: RE: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 11:04 AM

To: bwight@kochscow.com, donna.wittig@akerman.com, yosuphonglaw@gmail.com, melanie.morgan@akerman.com, bwood@mauricewood.com, jwtlaw@ymail.com
Cc: elizabeth.streible@akerman.com



Brody – You have permission to use my e-signature for Nationstar. Bar No. 12016. Thanks for preparing the order.

Scott Lachman

Associate, Consumer Financial Services Practice Group
Akerman LLP | 1635 Village Center Circle, Suite 200 | Las Vegas, NV 89134
D: 702 634 5021 | C: 702 321 7282
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From: Brody Wight <bwight@kochscow.com>
Sent: Thursday, November 19, 2020 10:42 AM
To: Wittig, Donna (Assoc-Las) <donna.wittig@akerman.com>; joseph hong <yosuphonglaw@gmail.com>; Morgan, Melanie (Ptnr-Las) <melanie.morgan@akerman.com>; Lachman, Scott (Assoc-Las) <scott.lachman@akerman.com>; Brittany Wood <bwood@mauricewood.com>; J Thomson <jwtlaw@ymail.com>
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C

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Order Granting
Defend...n.docx

From: Brody Wight bwight@kochscow.com 
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 10:42 AM

BW

To: donna.wittig@akerman.com, joseph.hong@yosuphonglaw@gmail.com, melanie.morgan@akerman.com,
scott.lachman@akerman.com, **Brittany Wood** bwood@mauricewood.com, **J Thomson** jwtlaw@ymail.com

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Order Granting
Defend...n.docx

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AA4499

EXHIBIT 2

EXHIBIT 2

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October 27, 2020

Via Email Only:

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Re: Tobin v. Chiesi, et al
Case No.: A-19-799890-C

Dear Counsel:

Please see below Nona Tobin’s comments and objections to the Order:

1. On January 31, 2017, Tobin, in her capacity as the trustee of the Gordon B. Hansen Trust (the “Trust”), filed a Cross-claim against the Sun City Anthem Community Association (the “HOA”) in District Court Case No. A-15-720032-C (the “Previous Case” or “Previous Action”) claiming the HOA, through its collection agent Red Rock, wrongfully foreclosed on a residence owned by the Trust and located at 2763 White Sage Drive, Henderson, Nevada 89052 (the “Property”) on August 15, 2014.

Claims were brought in both capacities as Trustee and an Individual. The proposed pleadings attached to the 11/15/16 Motion to Intervene, the 12/20/16 hearing minutes & Recorder’s Transcript Tobin as filing as an individual beneficiary & Gordon B. Hansen Trust, trustee. Her acceptance as an individual party was reaffirmed at a hearing on 4/27/17 See Recorder’s Transcript Page.

2. In that same litigation, Tobin brought claims against the Jimijack Defendants as successors in interest to the party that purchased the Property at the foreclosure.

Tobin/Gordon B. Hansen Trust's primary claim was never adjudicated at trial, i.e., that Jimijack had no valid interest as its deed was inadmissible per NRS 111.345 & was not the successor in interest to the party that purchased the property at foreclosure. Jimijack evaded judicial scrutiny of Jimijack's defective deed by transferring Jimijack's deed to non-party Joel Stokes as an individual five weeks before the trial that allegedly adjudicated the Gordon B. Hansen Trust's quiet title claim v Jimijack.

3. Tobin's central allegation in the Previous Case was that Red Rock committed fraud and wrongfully colluded with several parties, including the HOA, in foreclosing on the Property without complying with the requirements of NRS Chapter 116 or the HOA's governing documents. (*Id.* at ¶ 17).

The documents and record speak for themselves, and the summary here is not adequate.

4. Tobin's Cross-claim in the Previous Case listed a host of allegations of wrongdoing against including claims that Red Rock failed to provide the Trust with proper notice of the foreclosure sale and that it frequently misstated the amounts due and owing to the HOA under the HOA lien.

Tobin/Gordon B. Hansen Trust filed six causes of actions vs. Sun City Anthem. Sun City Anthem's Motion for Summary Judgment addressed quiet title only. Court rejected the Ombudsman's notice of sale log because it was not authenticated. It was authenticated on 4/15/19, but the court did not consider it.

5. The Cross-claim in the Previous Case contained a cause of action against the HOA for quiet title and equitable relief claiming that Red Rock's actions caused the foreclosure sale to be null and void as well as causes of action for civil conspiracy, fraud, unjust enrichment, and breach of contract. The allegations of each of those claims centered around Red Rock.

The degree to which Red Rock & FSR misled the HOA Board, usurped control of funds belonging to the HOA and other parties was revealed during discovery of the prior proceedings but there was no judicial scrutiny of the evidence because Sun City Anthem's attorneys misrepresented the Red Rock foreclosure file as Sun City Anthem's official records and concealed the HOA's verified, corroborated agendas, minutes, and ownership accounts.

These claims were not heard. Five of the six causes of actions were dismissed to go to mediation, but were not returned. Sun City Anthem Motion for Summary Judgment was a partial Motion for Summary Judgment.

There are things about Red Rock's fraud that were only discovered during discovery in the first proceedings. Tobin was prevented from addressing them at trial because she was removed as a Party in her individual capacity; documentary evidence was all excluded from trial, Page 18 of 1/31/17 cross-claim, failure to distribute proceeds, and many other findings of fact were misrepresented in the 4/17/19 Sun City Anthem Motion for Summary Judgment.

6. The Cross-claim in the Previous Case alleged that it was Red Rock that conspired, Red Rock that committed fraud, Red Rock that was unjustly enriched, and Red Rock that breached the contract, but the Cross-claim did not list Red Rock as a party.

None of these claims were heard. See # 13

Red Rock was not a party in the prior suit. Tobin tried to add them in her attempted amendment of her 1/31/17 Cross-Claim vs Sun City Anthem that it could not have any added parties or claims, but the Court wouldn't allow it. See 1/10/19 Recorder's Transcript.

7. On February 5, 2019, the HOA brought a motion for summary judgment seeking the dismissal of the Trust's Cross-claim. The HOA argued that Red Rock clearly complied with all requirements of law in foreclosing on the Property and carefully presented the court with all of the notices Red Rock provided.

Disagree. It was a partial Motion for Summary Judgment vs. the Gordon B. Hansen Trust on the quiet title claim. It did not address five of the six causes of actions in the 1/31/17 CRCM that all parties agreed on 3/26/19 hearing (See Recorder's Transcript) was the operative pleading.

Misstates what happened. While it is true that the HOA argues these points, it did so without any verified, corroborated supporting evidence and by unverified, uncorroborated Red Rock foreclosure file as if it was the HOA's official record.

Sun City Anthem's assisted Red Rock's alleged fraud by presenting inaccurate notices that were never sent, as if they were real, and concealed from discovery the actual official HOA records that support Tobin's and Leidy's declarations made under penalty of perjury.

8. The Trust filed an opposition attempting to defend its allegations with a declaration from Tobin attached that claimed the Trust owned the Property.

Tobin's 3/6/19 declaration under penalty of perjury was consistent with the many other declarations she made under penalty of perjury (9/23/16, 1/17/17, 3/14/19, 3/22/19, 4/20/19).

This implies there was some conflict in her statement about who owned it at the time of the sale and how she acquired title as an individual, but alternate theories of recovery are allowed.

Further, this 3/6/19 declaration was not considered by the court at the 3/26/19 hearing because the court had granted the HOA's Motion for Summary Judgment and Nationstar Mortgage's sua sponte on 3/5/19.

9. On April 17, 2019, the court in that case signed an order granting the HOA's motion in its entirety reasoning that "[t]he totality of the facts evidence that the HO properly followed the processes and procedures in foreclosing upon the Property." (Exhibit 4, pg. 9).

While it is true that is what the order says, there are many disputed facts in that order. See Tobin 4/20/19 DECL that was exhibit 1 to the 5/23/19 Reply to SCA's opposition to reconsider.

All evidence, meaning all sworn affidavits, declarations under penalty of perjury by Teralyn Lewis -Nevada Real Estate Division Custodian of Records; Craig Leidy- 2014 listing agent; Doug Proudfit- 2012-2013 Listing agent; Linda Proudfit – Proudfit Realty Custodian of Records; Steve Hansen – co-beneficiary to the Gordon B. Hansen Trust until 3/27/17; and Nona Tobin as well as all verified & corroborated documentary evidence support Nona Tobin's claims.

The court erred in relying solely on the HOA's oral arguments and Red Rock's unverified, uncorroborated file; ignoring all of the verified evidence that contradicts that statement.

10. Tobin, as the trustee to the Trust also brought identical claims against the Jimijack Defendant, as successors in interest to the party that purchased the Property at the foreclosure, in the Previous Case. After a full trial on the merits, the Court entered a judgment on June 24, 2019 finding in favor of the Jimijack Defendants and against the Trust on all of the Trust's claims in part due to the fact that the claims were precluded by the order granting summary judgment.

The 5 causes of actions of Tobin/Gordon B. Hansen Trust's 2/1/17 AACC vs Joel & Sandra as Trustees of Jimijack were not identical to the claims against the HOA and no claims against Jimijack were heard at trial. There was no "full trial on the merits". Joel A. Stokes, a party in this case, who held Jimijack's recorded interest as of 5/1/19, was not a party in either of the

consolidated cases. The court was not aware at trial that non-party Joel Stokes had encumbered the property with a \$355,000 deed of trust from non-party Civic Financial Services. The Stokes-Civil Financial Services Deed of Trust was wrongly identified as the Jimijack-Nationstar Mortgage “settlement” even though neither NSM nor Jimijack was party to Stokes-Civil Financial Services Deed of Trust.

Further, Plaintiff Jimijack that did not have an admissible deed filed, no quiet title (or any other) claims, into the consolidated cases except its original 6/16/15 COMP vs BANA. BANA defaulted & JDDF was filed on 10/16/15 so BANA was not a party.

Claims preclusion should not have been applied by the court. The Sun City Anthem’s Motion for Summary Judgment was a partial Motion for Summary Judgment as it specifically limited its scope to the quiet title causes of action of the Gordon B. Hansen Trust. The Motion for Summary Judgment was specifically not addressing five of the six Gordon B. Hansen Trust causes of actions or six of Tobin’s causes of actions against Sun City Anthem. Motion for Summary did not apply to Tobin/Gordon B. Hansen Trust’s five causes of actions against Jimijack or the four causes of actions against Hong’s other client Yuen K. Lee dba F. Bondurant as Hong did not file a joinder to Sun City Anthem’s Motion for Summary Judgment and his oral motion to join at the 3/26/19 hearing was denied. (Page 20, lines 16-17 Recorder’s Transcript)

11. Nationstar, as the servicing bank for the Deed of Trust on the Property at the time of foreclosure, was also party to the Previous Case, but Tobin did not bring claims against Nationstar directly.

Nationstar Mortgage was party in the previous case because it inaccurately claimed to hold the beneficial interest of the Hansen Deed of Trust.

Tobin filed an affidavit on 9/23/16 that stated on Page 5 “23. In our scenario, Nationstar Mortgage would retain whatever security interest they had (and could legitimately prove they had in the first deed of trust on August 14, 2014 and no more.

24. Our prayer to the court would be 1) void the sale, 2) give back the title to us as the equitable titleholders prior to the fraudulent HOA sale, and 3) not allow NSM's claims to a security interest prevail by bypassing the requirements of Nevada's 2011 anti-foreclosure fraud law.” (AB 284 2011)

25. I believe Nationstar Mortgage's claims are clearly contradicted by evidence I possess.”

12. Shortly after all of her claims were denied at trial, Tobin filed a whole new complaint on August 8, 2019, but this time she filed the Complaint in her individual

capacity. Tobin then filed a First Amended Complaint on June 3, 2020 (the “Complaint”)

Filing the new claim was necessary to protect my individual rights arising from my 3/28/17 deed. The parties would have asserted they were time-barred if I had not filed an individual claim prior to the 8/14/19 statute of limitations.¹

13. Tobin’s new Complaint alleges that in March 2017, in the middle of the previous litigation and before the Trust filed its motion for summary judgment against the HOA, the Trust transferred title to the Property to Tobin individually.

“...before the trust filed its Motion for Summary Judgment vs. the HOA” misstates the facts & the court record.

1/31/17 Tobin Cross-Claim vs Sun City Anthem

2/23/17 Sun City Anthem Motion to Dismiss Tobin/Gordon B. Hansen Trust per NRS 38.310

3/3/17 Tobin filed a Pro Se Motion for Summary Judgment to void the sale vs. the HOA on behalf of herself & Gordon B. Hansen Trust

3/14/17 Sun City Anthem changed attorneys from Lech to Lipson

3/22/17 Tobin gave Sun City Anthem a settlement offer to avoid litigation

3/22/17 Sun City Anthem filed Motion to Dismiss vs Tobin & Gordon B. Hansen Trust per NRCP 41 because Tobin was a Pro Se

3/31/17 Sun City Anthem filed an Opposition to Motion to Tobin Motion for Summary Judgment

4/27/17 Court denied Sun City Anthem Motion to Dismiss per 41 “as to the individual” but erred in not hearing the Tobin/Gordon B. Hansen Trust Motion for Summary Judgment which was scheduled to be heard 4/27/17

5/25/17 Sun City Anthem & Tobin/Gordon B. Hansen Trust new attorney stipulated to withdraw all claims & Tobin’s MSJ pending completion of mediation. Sun City Anthem’s 3/31/17 opposition was withdrawn erroneously as Sun City Anthem new attorney Ochoa misrepresented Sun City Anthem’s opposition as a 2nd Tobin/Gordon B. Hansen Trust Motion for Summary Judgment. Tobin/Gordon B. Hansen Trust completed mediation on 11/13/18, but her claims were not restored to the jurisdiction of the court as her 4/9/19, 4/12/19, 7/26/19 notices of completion of mediation and her 7/29/19 motion to dismiss per 38.310 were all stricken from the record unheard. This resulted in the court refusing to hear her 3/3/17 Motion for Summary Judgment vs. Sun City Anthem, her 4/10/19 Motion for Summary Judgment vs. Jimijack and her 4/24/19 motion to vacate the Sun City Anthem partial Motion for Summary Judgment of the Gordon B. Hansen Trust’s quiet title claims & Nationstar Mortgage’s limited joinder thereto pursuant to NRCP 60 fraud on court.

14. Other than asserting claims in her individual capacity, Tobin’s current action is based, once again, on allegations that Red Rock did not comply with the requirements of law in foreclosing on the Property in August 2014.

Tobin filed the claims that the HOA's agent did not comply with legal requirements in an individual capacity in the prior case, but the court did not hear her as an individual previously, and so the court was unaware of the specific evidence of Red Rock's falsification of its unverified, uncorroborated foreclosure file, keeping two sets of books, taking the authority of the HOA Board to retain proprietary control over funds collected for the benefit of the HOA, conspiring with Nationstar Mortgage to mischaracterize Nationstar Mortgage's rejected \$1100 tender to close the 5/8/14 \$367,500 auction.com sale, authenticated Ombudsman's log shows there was no notice of sale in effect when the 8/15/14 sale was held that was uncovered during the prior proceedings, so she reasserts those claims in the current case. The claim that Red Rock wrongly retained the proceeds of the sale was on page 18-19 of the 1/31/17 Cross-Claim vs. Sun City Anthem, but was never heard because Tobin was prohibited from adding back in the 5 of 6 causes of actions that were withdrawn pending completion of mediation. Tobin's individual motions and notices were all stricken from the record unheard.

15. The Complaint specifically brings claims against all of the Defendants for quiet title, unjust enrichment, and declaratory relief based entirely on allegations that Red Rock wrongfully foreclosed on the Property.

Disagree. The complaint speaks for itself and the summary is inadequately simple and incorrect. The claim against Nationstar Mortgage is that it never was the beneficial owner of the Hansen deed of trust, and is judicially estopped from claiming to own it now. However, because Nationstar Mortgage misrepresented to the court that Tobin's choosing to move to void the sale subject to the Hansen Deed of Trust meant that Tobin/Gordon B. Hansen Trust and Nationstar Mortgage were not opposing parties. Nationstar Mortgage therefore "settled out of court" and dropped its quiet title claims without meeting its burden of proof. Further, if the sale was valid to extinguish the Gordon B. Hansen Trust's interest, then it was valid to extinguish the Hansen Deed of Trust. Also, Nationstar Mortgage & Red Rock both concealed that the Nationstar Mortgage offer of \$1100 and the 3/28/14 Red Rock Financial Services pay off demand to Chicago title the complaint against Jimijack was that the deed was fraudulent and inadmissible per NRS 111.345. All other defendant's deeds that stemmed from Jimijack's are void as well. These are new claims never heard.

16. The Complaint brings the above claims against the Jimijack Defendants and Chiesi Defendants presumably because those Defendants obtained interests in the Property after foreclosure. The Complaint alleges that Nationstar was the servicer on the Deed of Trust on the Property at the time of foreclosure, but the Complaint does not specify why Nationstar was named as a defendant in the current action.

Nationstar Mortgage did not admit that it was only the servicer and not the beneficiary until after the end of discovery, and then they immediately contradicted it by recording a claim that contradicted its previous claim of being the beneficiary. Nationstar Mortgage recorded false claims related to the disputed Hansen DOT on 12/1/14, two on 3/8/19, 1/22/15, 8/17/15, and 6/3/19. In settlement with the other parties, the Jimijack-Nationstar Mortgage settlement, they decided to recording documents on 5/1/19 and 5/23/19 which clouded the title with reassignments of the Stokes-CFS DOT on 6/4/19 and 7/17/19. Chiesi/Quicken defendants recorded claims adverse to Tobin's claimed interest on 12/27/19 during the pendency of these proceedings and the appeal of the prior case. NSM reconveyed the Hansen deed of trust to Joel Stokes as an individual instead of to the estate of the borrower; while the Stokes-Civil Financial Services Deed of Trust still encumbered the property.

17. On June 23, 2020, Red Rock filed a motion to dismiss arguing, in part, that all of Tobin's claims are barred by the doctrines of claim preclusion and nonmutual claim preclusion. The remaining Defendants all properly joined Red Rock's motion.

Claims preclusion is not supported by the facts. Tobin's individual claims in the prior case were not heard. Nationstar Mortgage's claims were not heard because they were dismissed without Tobin's consent, allegedly in order to evade judicial scrutiny of any evidence, and creating a side deal with Jimijack to thwart Tobin's ownership interest. Jimijack didn't have any claims to adjudicate, but somehow won without any claims or any evidence.

Different parties, different claims, no fair adjudication previously equals no applicability of claims preclusion doctrine.

18. In their joinders, the Chiesi Defendants and the Jimijack Defendants requested this Court grant them attorney's fees and costs for defending against Tobin's claims. The Jimijack Defendant's Motion for Attorney's Fees and Costs were pursuant to EDCR Rule 7.60(b)(1) and/or (3).

The attorney fees and costs are separate matters and should not be included in the Order granting motion to dismiss.

Sincerely,

/s/ John W. Thomson

John W. Thomson. Esq.

JWT/ac

cc: Nona Tobin

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Nona Tobin, Plaintiff(s)

CASE NO: A-19-799890-C

7 vs.

DEPT. NO. Department 22

8 Joel Stokes, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/3/2020

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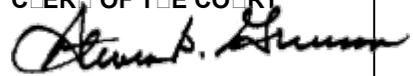
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12 *Attorneys for Defendant*
13 *Red Rock Financial Services*

14 DISTRICT COURT
15 CLARK COUNTY, NEVADA

16 NONA TOBIN, an individual,

17 Plaintiff,

18 vs.

19 BRIAN CHIESTI, an individual; DEBORA
20 CHIESTI, an individual; QUICKEN
21 LOANS IN.; JOEL A. STOKES, an
22 individual; JOEL A . STOKES AND
23 SANDRA STOKES as Trustees of
24 JIMI JACK IRREVOCABLE TRUST;
25 JIMI JACK IRREVOCABLE TRUST;
26 NATIONAL MORTGAGE LLC; RED
27 ROCK FINANCIAL SERVICES; DOES I
28 through X inclusive; and ROE
CORPORATIONS I through V, inclusive

Defendants.

Case No. A-19-799890-C
Dept. 22

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that the *Order Granting Defendant Red Rock Financial Services' Motion to Dismiss Complaint and All Joinders to the Motion* was entered in the above-referenced matter on December 3, 2020, a copy of which is attached hereto.

DATED: December 3, 2020.

KOCH & SCOW, LLC

/s/ Steven B. Scow
Steven B. Scow, Esq.
Attorney for Red Rock Financial Services, LLC

AA4511

CERTIFICATE OF SERVICE

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I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. I certify that on December 3, 2020, I caused the foregoing document entitled: **NOTICE OF ENTRY OF ORDER**, to be electronically filed and served with the Eighth Judicial District Court, County of Clark, State of Nevada EFile system.

Executed on December 3, 2020 at Henderson, Nevada.

/s/ Andrea W. Eshenbaugh
An Employee of Koch & Scow LLC

OGM
~~EDWO~~

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12 *Attorneys for Defendant*
13 *Red Rock Financial Services*

14 DISTRICT COURT
15 CLARK COUNTY, NEVADA

16 NONA TOBIN, an individual,
17
18 Plaintiff,
19 vs.
20 BRIAN CHIESTI, an individual; DEBORA
21 CHIESTI, an individual; QUICKEN
22 LOANS IN.; JOEL A. STOKES, an
23 individual; JOEL A . STOKES AND
24 SANDRA STOKES as Trustees of
25 JIMI JACK IRREVOCABLE TRUST;
26 JIMI JACK IRREVOCABLE TRUST;
27 NATIONSTAR MORTGAGE LLC; RED
28 ROCK FINANCIAL SERVICES, DOES I
through X inclusive; and ROE
CORPORATIONS I through V, inclusive
Defendants.

Case No. A-19-799890-C
Dept. 22

**ORDER GRANTING DEFENDANT
RED ROCK FINANCIAL SERVICES'
MOTION TO DISMISS COMPLAINT
AND ALL JOINDERS TO THE
MOTION**

On August 11, 2020 Defendant Red Rock Financial, LLC's ("Red Rock") Motion to Dismiss Nona Tobin's Claims against it and as well as Nationstar Mortgage, LLC's ("Nationstar") Joinder to Red Rock's motion; Joel a Stokes, Joel A. Stokes and Sandra Stokes as trustees of Jimijack Irrevocable Trust, and Jimijack Irrevocable Trust (the "Jimijack Defendants") Joinder to Red Rock's motion; and Brian Chiesi, Debora Chiesi,

1 and Quicken Loans, Inc.'s (the "Chiesi Defendants") Joinder to Red Rock's motion came
2 on for hearing in this Court (collectively all above Defendants shall be referred to as the
3 "Defendants"). Appearing on behalf of Red Rock was counsel of record, Brody Wight
4 appearing on behalf of Nationstar was counsel of record Donna Wittig, appearing on
5 behalf of the Jimijack Defendants was counsel of record Joseph Hong, appearing on
6 behalf of the Chiesi Defendants was counsel of record Brittany Wood, and appearing on
7 behalf of Tobin was counsel of record John Thomson. The Court, having considered the
8 motion, all of the joinders to the motion, the opposition filed by Tobin, the reply filed by
9 Red Rock, and all joinders to the reply, having heard and considered any argument of
10 counsel at the time of hearing, finds and orders as follows.

11 **FACTS**

12 **A. Tobin Unsuccessfully Brings Claims Against the HOA**

13 1. On January 31, 2017, Tobin, in her capacity as the trustee of the Gordon B.
14 Hansen Trust (the "Trust"), filed a Cross-claim against the Sun City Anthem Community
15 Association (the "HOA") in District Court Case No. A-15-720032-C (the "Previous Case"
16 or "Previous Action") claiming the HOA, through its collection agent Red Rock,
17 wrongfully foreclosed on a residence owned by the Trust and located at 2763 White Sage
18 Drive, Henderson, Nevada 89052 (the "Property") on August 15, 2014.

19 2. In that same litigation, Tobin brought claims against the Jimijack
20 Defendants as successors in interest to the party that purchased the Property at the
21 foreclosure.

22 3. Tobin's central allegation in the Previous Case was that Red Rock
23 committed fraud and wrongfully colluded with several parties, including the HOA, in
24 foreclosing on the Property without complying with the requirements of NRS Chapter
25 116 or the HOA's governing documents.

26 4. Tobin's Cross-claim in the Previous Case listed a host of allegations of
27 wrongdoing against Red Rock including claims that Red Rock failed to provide the Trust
28

1 with proper notice of the foreclosure sale and that it frequently misstated the amounts
2 due and owing to the HOA under the HOA lien.

3 5. The Cross-claim in the Previous Case contained a cause of action against
4 the HOA for quiet title and equitable relief claiming that Red Rock's actions caused the
5 foreclosure sale to be null and void as well as causes of action for civil conspiracy, fraud,
6 unjust enrichment, and breach of contract. The allegations of each of those claims
7 centered around Red Rock.

8 6. The Cross-claim in the Previous Case alleged that it was Red Rock that
9 conspired, Red Rock that committed fraud, Red Rock that was unjustly enriched, and
10 Red Rock that breached the contract, but the Cross-claim did not list Red Rock as a party.

11 7. On February 5, 2019, the HOA brought a motion for summary judgment
12 seeking the dismissal of the Trust's Cross-claim. The HOA argued that Red Rock clearly
13 complied with all requirements of law in foreclosing on the Property and carefully
14 presented the court with all of the notices Red Rock provided.

15 8. The Trust filed an opposition attempting to defend its allegations with a
16 declaration from Tobin attached that claimed the Trust owned the Property.

17 9. On April 17, 2019, the court in that case signed an order granting the
18 HOA's motion in its entirety reasoning that "[t]he totality of the facts evidence that the
19 HOA properly followed the processes and procedures in foreclosing upon the Property."

20 10. Tobin, as the trustee to the Trust, also brought identical claims against the
21 Jimijack Defendants, as successors in interest to the party that purchased the Property at
22 the foreclosure, in the Previous Case. After a full trial on the merits, the Court entered a
23 judgment on June 24, 2019, finding in favor of the Jimijack Defendants and against the
24 Trust on all of the Trust's claims in part due to the fact that the claims were precluded by
25 the order granting summary judgment.

1 claims. The Jimijack Defendants' Motion for Attorney's Fees and Costs were pursuant to
2 EDCR Rule 7.60(b)(1) and / or (3).

3 **STANDARD FOR DISMISSAL UNDER NRCP 12(B)(5)**

4 19. Pursuant to NRCP 12(b)(5), a motion to dismiss should be granted upon
5 "failure to state a claim upon which relief can be granted." A motion brought under
6 NRCP 12(b)(5) tests the legal sufficiency of the claim as alleged by the moving party. A
7 motion to dismiss must be granted where it appears to a certainty that the plaintiff is
8 entitled to no relief under any set of facts that could be proved in support of a claim. *Buzz*
9 *Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 (2008); *Blackjack Bonding v. Las Vegas*
10 *Mun. Ct.*, 116 Nev. 1213,1217 (2000); *Simpson v. Mars Inc.*, 113 Nev. 188, 190 (1997).

11 20. In reviewing motions to dismiss, courts may consider the allegations of the
12 Complaint and "may also consider unattached [or attached] evidence on which the
13 complaint necessarily relies if: (1) the complaint refers to the document; (2) the document
14 is central to the plaintiff's claim; and (3) no party questions the authenticity of the
15 document." *Baxter v. Dignity Health*, 357 P.3d 927, 930 (Nev. 2015) (quoting *United States*
16 *v. Corinthian Colleges*, 655 F.3d 984, 999 (9th Cir.2011)).

17 **LEGAL FINDINGS**

18 21. The doctrine of claim preclusion, otherwise known as *res judicata* is
19 designed to prevent plaintiffs and their privies from filing any claims that were or could
20 have been asserted in a different suit. *U. of Nevada v. Tarkanian*, 879 P.2d 1180, 1191–92
21 (Nev. 1994).

22 22. The concept of *nonmutual* claim preclusion extends the doctrine and
23 "embraces the idea that a plaintiff's second suit against a new party should be precluded
24 'if the new party can show good reasons why he should have been joined in the first
25 action and the [plaintiff] cannot show any good reasons to justify a second chance.' "
26 *Weddell v. Sharp*, 350 P.3d 80, 84–85 (Nev. 2015) (quoting 18A Charles Alan Wright, et al.,
27 Federal Practice and Procedure § 4464.1 (2d ed.2002)

1 the time of the previous action, and Tobin has not provided any good reason for not
2 having brought Red Rock in the previous action.

3 28. Because this case meets all of the elements of claim preclusion and
4 nonmutual claim preclusion, those doctrines now bar Tobin from bringing all of her
5 claims against the Defendants.

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EXHIBIT 1

EXHIBIT 1

From: joseph hong yosuphonglaw@gmail.com
Subject: Re: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 30, 2020 at 12:57 PM
To: Brody Wight bwight@kochscow.com



Hi Brody...please affix my e-signature on the Order...

On Thu, Nov 19, 2020 at 10:42 AM Brody Wight <bwight@kochscow.com> wrote:

I am attaching the order granting Red Rock's motion to dismiss and all joinders that has the changes requested by the Court. If you approve of this order, please respond to this email authorizing me to attach your e-signature.

John, I am aware that you do not approve of the order and will attach the letter you sent regarding the order as an exhibit to the order per the Court's request.

Brody Wight
Koch & Scow LLC
11500 S. Eastern Ave., Suite 210
Henderson, Nevada 89052
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702-318-5039 (fax)
801-645-8978 (cell)
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Joseph Y. Hong, Esq
Hong & Hong Law Office
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1980 Festival Plaza Dr., Suite 650
Las Vegas, Nevada 89135
Tel: (702) 870-1777
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Email: Yosuphonglaw@gmail.com

From: Brittany Wood bwood@mauricewood.com 
Subject: RE: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 2:00 PM
To: Brody Wight bwight@kochscow.com, donna.wittig@akerman.com, joseph hong yosuphonglaw@gmail.com, melanie.morgan@akerman.com, scott.lachman@akerman.com, J Thomson jwtlaw@ymail.com

BW

You have my authority to attach my electronic signature.

Brittany Wood

Partner



9525 Hillwood Drive | Suite 140
Las Vegas, Nevada | 89134
Office: (702) 463-7616 | Fax: (702) 463-6224
bwood@mauricewood.com

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From: Brody Wight <bwight@kochscow.com>
Sent: Thursday, November 19, 2020 10:42 AM
To: donna.wittig@akerman.com; joseph hong <yosuphonglaw@gmail.com>; melanie.morgan@akerman.com; scott.lachman@akerman.com; Brittany Wood <bwood@mauricewood.com>; J Thomson <jwtlaw@ymail.com>
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C

I am attaching the order granting Red Rock's motion to dismiss and all joinders that has the changes requested by the Court. If you approve of this order, please respond to this email authorizing me to attach your e-signature.

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Brody Wight
Koch & Scow LLC
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702-318-5039 (fax)
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AA4523

From: Scott.lachman@akerman.com 
Subject: RE: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 11:04 AM
To: bwight@kochscow.com, donna.wittig@akerman.com, yosuphonglaw@gmail.com, melanie.morgan@akerman.com, bwood@mauricewood.com, jwtlaw@ymail.com
Cc: elizabeth.streible@akerman.com



Brody – You have permission to use my e-signature for Nationstar. Bar No. 12016. Thanks for preparing the order.

Scott Lachman

Associate, Consumer Financial Services Practice Group
Akerman LLP | 1635 Village Center Circle, Suite 200 | Las Vegas, NV 89134
D: 702 634 5021 | C: 702 321 7282
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From: Brody Wight <bwight@kochscow.com>
Sent: Thursday, November 19, 2020 10:42 AM
To: Wittig, Donna (Assoc-Las) <donna.wittig@akerman.com>; joseph hong <yosuphonglaw@gmail.com>; Morgan, Melanie (Ptnr-Las) <melanie.morgan@akerman.com>; Lachman, Scott (Assoc-Las) <scott.lachman@akerman.com>; Brittany Wood <bwood@mauricewood.com>; J Thomson <jwtlaw@ymail.com>
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C

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John, I am aware that you do not approve of the order and will attach the letter you sent regarding the order as an exhibit to the order per the Court's request.



Order Granting
Defend...n.docx

From: Brody Wight bwight@kochscow.com 
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 10:42 AM

BW

To: donna.wittig@akerman.com, joseph hong yosuphonglaw@gmail.com, melanie.morgan@akerman.com, scott.lachman@akerman.com, **Brittany Wood** bwood@mauricewood.com, **J Thomson** jwtlaw@ymail.com

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John, I am aware that you do not approve of the order and will attach the letter you sent regarding the order as an exhibit to the order per the Court's request.



Order Granting
Defend...n.docx

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AA4526

EXHIBIT 2

EXHIBIT 2

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OFFICE: 702-478-8282
FAX: 702-541-9500
EMAIL: johnwthomson@ymail.com/jwtlaw@ymail.com

October 27, 2020

Via Email Only:

David Koch – dkoch@kochscow.com
Brody Wight – bwight@kochscow.com
Daniel Scow – dscow@kochscow.com
Steven Scow – sscow@kochscow.com
Donna Wittig – donna.wittig@akerman.com
Melanie Morgan – Melanie.morgan@akerman.com
Joseph Hong – yosuphonglaw@gmail.com
Brittany Wood – bwood@mauricewood.com

Re: Tobin v. Chiesi, et al
Case No.: A-19-799890-C

Dear Counsel:

Please see below Nona Tobin’s comments and objections to the Order:

1. On January 31, 2017, Tobin, in her capacity as the trustee of the Gordon B. Hansen Trust (the “Trust”), filed a Cross-claim against the Sun City Anthem Community Association (the “HOA”) in District Court Case No. A-15-720032-C (the “Previous Case” or “Previous Action”) claiming the HOA, through its collection agent Red Rock, wrongfully foreclosed on a residence owned by the Trust and located at 2763 White Sage Drive, Henderson, Nevada 89052 (the “Property”) on August 15, 2014.

Claims were brought in both capacities as Trustee and an Individual. The proposed pleadings attached to the 11/15/16 Motion to Intervene, the 12/20/16 hearing minutes & Recorder’s Transcript Tobin as filing as an individual beneficiary & Gordon B. Hansen Trust, trustee. Her acceptance as an individual party was reaffirmed at a hearing on 4/27/17 See Recorder’s Transcript Page.

2. In that same litigation, Tobin brought claims against the Jimijack Defendants as successors in interest to the party that purchased the Property at the foreclosure.

Tobin/Gordon B. Hansen Trust's primary claim was never adjudicated at trial, i.e., that Jimijack had no valid interest as its deed was inadmissible per NRS 111.345 & was not the successor in interest to the party that purchased the property at foreclosure. Jimijack evaded judicial scrutiny of Jimijack's defective deed by transferring Jimijack's deed to non-party Joel Stokes as an individual five weeks before the trial that allegedly adjudicated the Gordon B. Hansen Trust's quiet title claim v Jimijack.

3. Tobin's central allegation in the Previous Case was that Red Rock committed fraud and wrongfully colluded with several parties, including the HOA, in foreclosing on the Property without complying with the requirements of NRS Chapter 116 or the HOA's governing documents. (*Id.* at ¶ 17).

The documents and record speak for themselves, and the summary here is not adequate.

4. Tobin's Cross-claim in the Previous Case listed a host of allegations of wrongdoing against including claims that Red Rock failed to provide the Trust with proper notice of the foreclosure sale and that it frequently misstated the amounts due and owing to the HOA under the HOA lien.

Tobin/Gordon B. Hansen Trust filed six causes of actions vs. Sun City Anthem. Sun City Anthem's Motion for Summary Judgment addressed quiet title only. Court rejected the Ombudsman's notice of sale log because it was not authenticated. It was authenticated on 4/15/19, but the court did not consider it.

5. The Cross-claim in the Previous Case contained a cause of action against the HOA for quiet title and equitable relief claiming that Red Rock's actions caused the foreclosure sale to be null and void as well as causes of action for civil conspiracy, fraud, unjust enrichment, and breach of contract. The allegations of each of those claims centered around Red Rock.

The degree to which Red Rock & FSR misled the HOA Board, usurped control of funds belonging to the HOA and other parties was revealed during discovery of the prior proceedings but there was no judicial scrutiny of the evidence because Sun City Anthem's attorneys misrepresented the Red Rock foreclosure file as Sun City Anthem's official records and concealed the HOA's verified, corroborated agendas, minutes, and ownership accounts.

These claims were not heard. Five of the six causes of actions were dismissed to go to mediation, but were not returned. Sun City Anthem Motion for Summary Judgment was a partial Motion for Summary Judgment.

There are things about Red Rock's fraud that were only discovered during discovery in the first proceedings. Tobin was prevented from addressing them at trial because she was removed as a Party in her individual capacity; documentary evidence was all excluded from trial, Page 18 of 1/31/17 cross-claim, failure to distribute proceeds, and many other findings of fact were misrepresented in the 4/17/19 Sun City Anthem Motion for Summary Judgment.

6. The Cross-claim in the Previous Case alleged that it was Red Rock that conspired, Red Rock that committed fraud, Red Rock that was unjustly enriched, and Red Rock that breached the contract, but the Cross-claim did not list Red Rock as a party.

None of these claims were heard. See # 13

Red Rock was not a party in the prior suit. Tobin tried to add them in her attempted amendment of her 1/31/17 Cross-Claim vs Sun City Anthem that it could not have any added parties or claims, but the Court wouldn't allow it. See 1/10/19 Recorder's Transcript.

7. On February 5, 2019, the HOA brought a motion for summary judgment seeking the dismissal of the Trust's Cross-claim. The HOA argued that Red Rock clearly complied with all requirements of law in foreclosing on the Property and carefully presented the court with all of the notices Red Rock provided.

Disagree. It was a partial Motion for Summary Judgment vs. the Gordon B. Hansen Trust on the quiet title claim. It did not address five of the six causes of actions in the 1/31/17 CRCM that all parties agreed on 3/26/19 hearing (See Recorder's Transcript) was the operative pleading.

Misstates what happened. While it is true that the HOA argues these points, it did so without any verified, corroborated supporting evidence and by unverified, uncorroborated Red Rock foreclosure file as if it was the HOA's official record.

Sun City Anthem's assisted Red Rock's alleged fraud by presenting inaccurate notices that were never sent, as if they were real, and concealed from discovery the actual official HOA records that support Tobin's and Leidy's declarations made under penalty of perjury.

8. The Trust filed an opposition attempting to defend its allegations with a declaration from Tobin attached that claimed the Trust owned the Property.

Tobin's 3/6/19 declaration under penalty of perjury was consistent with the many other declarations she made under penalty of perjury (9/23/16, 1/17/17, 3/14/19, 3/22/19, 4/20/19).

This implies there was some conflict in her statement about who owned it at the time of the sale and how she acquired title as an individual, but alternate theories of recovery are allowed.

Further, this 3/6/19 declaration was not considered by the court at the 3/26/19 hearing because the court had granted the HOA's Motion for Summary Judgment and Nationstar Mortgage's sua sponte on 3/5/19.

9. On April 17, 2019, the court in that case signed an order granting the HOA's motion in its entirety reasoning that "[t]he totality of the facts evidence that the HO properly followed the processes and procedures in foreclosing upon the Property." (Exhibit 4, pg. 9).

While it is true that is what the order says, there are many disputed facts in that order. See Tobin 4/20/19 DECL that was exhibit 1 to the 5/23/19 Reply to SCA's opposition to reconsider.

All evidence, meaning all sworn affidavits, declarations under penalty of perjury by Teralyn Lewis -Nevada Real Estate Division Custodian of Records; Craig Leidy- 2014 listing agent; Doug Proudfit- 2012-2013 Listing agent; Linda Proudfit – Proudfit Realty Custodian of Records; Steve Hansen – co-beneficiary to the Gordon B. Hansen Trust until 3/27/17; and Nona Tobin as well as all verified & corroborated documentary evidence support Nona Tobin's claims.

The court erred in relying solely on the HOA's oral arguments and Red Rock's unverified, uncorroborated file; ignoring all of the verified evidence that contradicts that statement.

10. Tobin, as the trustee to the Trust also brought identical claims against the Jimijack Defendant, as successors in interest to the party that purchased the Property at the foreclosure, in the Previous Case. After a full trial on the merits, the Court entered a judgment on June 24, 2019 finding in favor of the Jimijack Defendants and against the Trust on all of the Trust's claims in part due to the fact that the claims were precluded by the order granting summary judgment.

The 5 causes of actions of Tobin/Gordon B. Hansen Trust's 2/1/17 AACC vs Joel & Sandra as Trustees of Jimijack were not identical to the claims against the HOA and no claims against Jimijack were heard at trial. There was no "full trial on the merits". Joel A. Stokes, a party in this case, who held Jimijack's recorded interest as of 5/1/19, was not a party in either of the

consolidated cases. The court was not aware at trial that non-party Joel Stokes had encumbered the property with a \$355,000 deed of trust from non-party Civic Financial Services. The Stokes-Civil Financial Services Deed of Trust was wrongly identified as the Jimijack-Nationstar Mortgage “settlement” even though neither NSM nor Jimijack was party to Stokes-Civil Financial Services Deed of Trust.

Further, Plaintiff Jimijack that did not have an admissible deed filed, no quiet title (or any other) claims, into the consolidated cases except its original 6/16/15 COMP vs BANA. BANA defaulted & JDDF was filed on 10/16/15 so BANA was not a party.

Claims preclusion should not have been applied by the court. The Sun City Anthem’s Motion for Summary Judgment was a partial Motion for Summary Judgment as it specifically limited its scope to the quiet title causes of action of the Gordon B. Hansen Trust. The Motion for Summary Judgment was specifically not addressing five of the six Gordon B. Hansen Trust causes of actions or six of Tobin’s causes of actions against Sun City Anthem. Motion for Summary did not apply to Tobin/Gordon B. Hansen Trust’s five causes of actions against Jimijack or the four causes of actions against Hong’s other client Yuen K. Lee dba F. Bondurant as Hong did not file a joinder to Sun City Anthem’s Motion for Summary Judgment and his oral motion to join at the 3/26/19 hearing was denied. (Page 20, lines 16-17 Recorder’s Transcript)

11. Nationstar, as the servicing bank for the Deed of Trust on the Property at the time of foreclosure, was also party to the Previous Case, but Tobin did not bring claims against Nationstar directly.

Nationstar Mortgage was party in the previous case because it inaccurately claimed to hold the beneficial interest of the Hansen Deed of Trust.

Tobin filed an affidavit on 9/23/16 that stated on Page 5 “23. In our scenario, Nationstar Mortgage would retain whatever security interest they had (and could legitimately prove they had in the first deed of trust on August 14, 2014 and no more.

24. Our prayer to the court would be 1) void the sale, 2) give back the title to us as the equitable titleholders prior to the fraudulent HOA sale, and 3) not allow NSM's claims to a security interest prevail by bypassing the requirements of Nevada's 2011 anti-foreclosure fraud law.” (AB 284 2011)

25. I believe Nationstar Mortgage's claims are clearly contradicted by evidence I possess.”

12. Shortly after all of her claims were denied at trial, Tobin filed a whole new complaint on August 8, 2019, but this time she filed the Complaint in her individual

capacity. Tobin then filed a First Amended Complaint on June 3, 2020 (the “Complaint”)

Filing the new claim was necessary to protect my individual rights arising from my 3/28/17 deed. The parties would have asserted they were time-barred if I had not filed an individual claim prior to the 8/14/19 statute of limitations.¹

13. Tobin’s new Complaint alleges that in March 2017, in the middle of the previous litigation and before the Trust filed its motion for summary judgment against the HOA, the Trust transferred title to the Property to Tobin individually.

“...before the trust filed its Motion for Summary Judgment vs. the HOA” misstates the facts & the court record.

1/31/17 Tobin Cross-Claim vs Sun City Anthem

2/23/17 Sun City Anthem Motion to Dismiss Tobin/Gordon B. Hansen Trust per NRS 38.310

3/3/17 Tobin filed a Pro Se Motion for Summary Judgment to void the sale vs. the HOA on behalf of herself & Gordon B. Hansen Trust

3/14/17 Sun City Anthem changed attorneys from Lech to Lipson

3/22/17 Tobin gave Sun City Anthem a settlement offer to avoid litigation

3/22/17 Sun City Anthem filed Motion to Dismiss vs Tobin & Gordon B. Hansen Trust per NRCP 41 because Tobin was a Pro Se

3/31/17 Sun City Anthem filed an Opposition to Motion to Tobin Motion for Summary Judgment

4/27/17 Court denied Sun City Anthem Motion to Dismiss per 41 “as to the individual” but erred in not hearing the Tobin/Gordon B. Hansen Trust Motion for Summary Judgment which was scheduled to be heard 4/27/17

5/25/17 Sun City Anthem & Tobin/Gordon B. Hansen Trust new attorney stipulated to withdraw all claims & Tobin’s MSJ pending completion of mediation. Sun City Anthem’s 3/31/17 opposition was withdrawn erroneously as Sun City Anthem new attorney Ochoa misrepresented Sun City Anthem’s opposition as a 2nd Tobin/Gordon B. Hansen Trust Motion for Summary Judgment. Tobin/Gordon B. Hansen Trust completed mediation on 11/13/18, but her claims were not restored to the jurisdiction of the court as her 4/9/19, 4/12/19, 7/26/19 notices of completion of mediation and her 7/29/19 motion to dismiss per 38.310 were all stricken from the record unheard. This resulted in the court refusing to hear her 3/3/17 Motion for Summary Judgment vs. Sun City Anthem, her 4/10/19 Motion for Summary Judgment vs. Jimijack and her 4/24/19 motion to vacate the Sun City Anthem partial Motion for Summary Judgment of the Gordon B. Hansen Trust’s quiet title claims & Nationstar Mortgage’s limited joinder thereto pursuant to NRCP 60 fraud on court.

14. Other than asserting claims in her individual capacity, Tobin’s current action is based, once again, on allegations that Red Rock did not comply with the requirements of law in foreclosing on the Property in August 2014.

Tobin filed the claims that the HOA's agent did not comply with legal requirements in an individual capacity in the prior case, but the court did not hear her as an individual previously, and so the court was unaware of the specific evidence of Red Rock's falsification of its unverified, uncorroborated foreclosure file, keeping two sets of books, taking the authority of the HOA Board to retain proprietary control over funds collected for the benefit of the HOA, conspiring with Nationstar Mortgage to mischaracterize Nationstar Mortgage's rejected \$1100 tender to close the 5/8/14 \$367,500 auction.com sale, authenticated Ombudsman's log shows there was no notice of sale in effect when the 8/15/14 sale was held that was uncovered during the prior proceedings, so she reasserts those claims in the current case. The claim that Red Rock wrongly retained the proceeds of the sale was on page 18-19 of the 1/31/17 Cross-Claim vs. Sun City Anthem, but was never heard because Tobin was prohibited from adding back in the 5 of 6 causes of actions that were withdrawn pending completion of mediation. Tobin's individual motions and notices were all stricken from the record unheard.

15. The Complaint specifically brings claims against all of the Defendants for quiet title, unjust enrichment, and declaratory relief based entirely on allegations that Red Rock wrongfully foreclosed on the Property.

Disagree. The complaint speaks for itself and the summary is inadequately simple and incorrect. The claim against Nationstar Mortgage is that it never was the beneficial owner of the Hansen deed of trust, and is judicially estopped from claiming to own it now. However, because Nationstar Mortgage misrepresented to the court that Tobin's choosing to move to void the sale subject to the Hansen Deed of Trust meant that Tobin/Gordon B. Hansen Trust and Nationstar Mortgage were not opposing parties. Nationstar Mortgage therefore "settled out of court" and dropped its quiet title claims without meeting its burden of proof. Further, if the sale was valid to extinguish the Gordon B. Hansen Trust's interest, then it was valid to extinguish the Hansen Deed of Trust. Also, Nationstar Mortgage & Red Rock both concealed that the Nationstar Mortgage offer of \$1100 and the 3/28/14 Red Rock Financial Services pay off demand to Chicago title the complaint against Jimijack was that the deed was fraudulent and inadmissible per NRS 111.345. All other defendant's deeds that stemmed from Jimijack's are void as well. These are new claims never heard.

16. The Complaint brings the above claims against the Jimijack Defendants and Chiesi Defendants presumably because those Defendants obtained interests in the Property after foreclosure. The Complaint alleges that Nationstar was the servicer on the Deed of Trust on the Property at the time of foreclosure, but the Complaint does not specify why Nationstar was named as a defendant in the current action.

Nationstar Mortgage did not admit that it was only the servicer and not the beneficiary until after the end of discovery, and then they immediately contradicted it by recording a claim that contradicted its previous claim of being the beneficiary. Nationstar Mortgage recorded false claims related to the disputed Hansen DOT on 12/1/14, two on 3/8/19, 1/22/15, 8/17/15, and 6/3/19. In settlement with the other parties, the Jimijack-Nationstar Mortgage settlement, they decided to recording documents on 5/1/19 and 5/23/19 which clouded the title with reassignments of the Stokes-CFS DOT on 6/4/19 and 7/17/19. Chiesi/Quicken defendants recorded claims adverse to Tobin's claimed interest on 12/27/19 during the pendency of these proceedings and the appeal of the prior case. NSM reconveyed the Hansen deed of trust to Joel Stokes as an individual instead of to the estate of the borrower; while the Stokes-Civil Financial Services Deed of Trust still encumbered the property.

17. On June 23, 2020, Red Rock filed a motion to dismiss arguing, in part, that all of Tobin's claims are barred by the doctrines of claim preclusion and nonmutual claim preclusion. The remaining Defendants all properly joined Red Rock's motion.

Claims preclusion is not supported by the facts. Tobin's individual claims in the prior case were not heard. Nationstar Mortgage's claims were not heard because they were dismissed without Tobin's consent, allegedly in order to evade judicial scrutiny of any evidence, and creating a side deal with Jimijack to thwart Tobin's ownership interest. Jimijack didn't have any claims to adjudicate, but somehow won without any claims or any evidence.

Different parties, different claims, no fair adjudication previously equals no applicability of claims preclusion doctrine.

18. In their joinders, the Chiesi Defendants and the Jimijack Defendants requested this Court grant them attorney's fees and costs for defending against Tobin's claims. The Jimijack Defendant's Motion for Attorney's Fees and Costs were pursuant to EDCR Rule 7.60(b)(1) and/or (3).

The attorney fees and costs are separate matters and should not be included in the Order granting motion to dismiss.

Sincerely,

/s/ John W. Thomson

John W. Thomson. Esq.

JWT/ac

cc: Nona Tobin

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Nona Tobin, Plaintiff(s)

CASE NO: A-19-799890-C

7 vs.

DEPT. NO. Department 22

8 Joel Stokes, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/3/2020

15 David Koch

dkoch@kochscow.com

16 Brody Wight

bwight@kochscow.com

17 Akerman LLP

AkermanLAS@akerman.com

18 Andrea Eshenbaugh - Legal Assistant

aeshenbaugh@kochscow.com

19 Donna Wittig

donna.wittig@akerman.com

20 Daniel Scow

dscow@kochscow.com

21 JOSEPH HONG

YOSUPHONGLAW@GMAIL.COM

22 JOSEPH HONG

YOSUPHONGLAW@GMAIL.COM

23 MELANIE MORGAN

melanie.morgan@akerman.com

24 JOSEPH HONG

yosuphonglaw@gmail.com

25 JOSEPH HONG

YOSUPHONGLAW@GMAIL.COM

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STEVEN SCOW

sscow@kochscow.com

STEVEN SCOW

sscow@kochscow.com

John Thomson

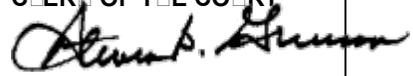
johnwthomson@ymail.com

Vincenette Caruana

jwtlaw@ymail.com

Brittany Wood

bwood@mauricewood.com



1 JOHN W. THOMSON, ESQ.
2 Nevada Bar No. 5802
3 THOMSON LAW PC
4 2450 St. Rose Parkway, Suite 120
5 Henderson, NV 89074
6 (702) 478-8282 Telephone
7 (702) 541-9500 Facsimile
8 Email: johnwthomson@ymail.com
9 Attorney for Plaintiff Nona Tobin

7 **IN THE EIGHTH DISTRICT COURT OF THE**
8 **STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK**

10 NONA TOBIN, an Individual

11 Plaintiff,

12 vs.

13 BRIAN CHIESI, an individual; DEBORA
14 CHIESI, an individual; QUICKEN LOANS
15 INC.; JOEL A. STOKES, an individual;
16 JOEL A. STOKES and SANDRA STOKES
17 as Trustees of JIMI JACK IRREVOCABLE
18 TRUST; JIMI JACK IRREVOCABLE
19 TRUST; NATIONSTAR MORTGAGE LLC;
20 RED ROCK FINANCIAL SERVICES;
21 DOES I through X inclusive; and ROE
22 CORPORATIONS I through V, inclusive

23 Defendants.

Case No.: A-19-799890-C

Dept No.: 22

CASE APPEAL STATEMENT

21 NONA TOBIN, as an individual, by and through her undersigned attorney for the Case
22 Appeal Statement, states as follows:

- 24 1. Name of appellant filing this case appeal statement:
25 NONA TOBIN, as an individual.
- 26 2. Identify the judge issuing the decision, judgment, or order appealed from:
27 The Honorable Susan H. Johnson.
- 28 3. Identify each appellant and the name and address of counsel for each appellant:

1 NONA TOBIN, an individual, Appellant

2 John W. Thomson, Esq.
3 Nevada Bar No. 5802
4 Thomson Law PC
5 2450 St. Rose Parkway, Suite 120
6 Henderson, Nevada 89074

7 4. Identify each respondent and the name and address of appellate counsel, if known,
8 for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as
9 much and provide the name and address of that respondent's trial counsel):

10 a. Brian Chiesi and Debora Chiesi and Quicken Loans, LLC,
11 Respondents.

12 Respondents' appellate counsel is unknown. Trial counsel was:

13 Brittany Wood, Esq.
14 Nevada Bar No. 7562
15 Maurice Wood
16 9525 Hillwood Drive, Suite 140
17 Las Vegas, Nevada 89134

18 5. Indicate whether any attorney identified above in response to question 3 or 4 is
19 not licensed to practice law in Nevada and, if so, whether the district court granted that attorney
20 permission to appear under SCR 42 (attach a copy of any district court order granting such
21 permission):

22 The attorneys identified above are licensed to practice law in Nevada.

23 6. Indicate whether appellant was represented by appointed or retained counsel in
24 the district court:

25 Appellant was represented by:

26 John W. Thomson, Esq.
27 Nevada Bar No. 5802
28 Thomson Law PC
2450 St. Rose Parkway, Suite 120

1 Henderson, Nevada 89074

2
3 7. Indicate whether appellant is represented by appointed or retained counsel on
4 appeal:

5 Appellant is represented by retained counsel.

6 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and
7 the date of entry of the district court granting such leave:

8 No.

9
10 9. Indicate the date the proceedings commenced in the district court (e.g., date
11 complaint, indictment, information, or petition was filed):

12 The original Complaint was filed on August 7, 2019, the First Amended
13 Complaint was filed on June 3, 2020.

14
15 10. Provide a brief description of the nature of the action and result in the district
16 court, including the type of judgment or order being appealed and the relief granted by the
17 district court:

18 Nona Tobin, an individual, filed a complaint for quiet title against current deedholders
19 Brian and Debora Chiesi, current lienholder Quicken Loans, and other defendants who had
20 recorded other claims adverse to Tobin's title claim, for declaratory relief and equitable
21 relief/unjust enrichment against Red Rock Financial Services and Nationstar Mortgage for the
22 undistributed excess proceeds of the disputed 2014 HOA foreclosure sale, and against Joel and
23 Sandra Stokes for the retention of over \$100,000 in rents collected after the disputed HOA sale,
24 that Tobin claims was defective and unfair for many other statutory and other violations of law.

25
26 Defendant Red Rock Financial Services filed a Motion to Dismiss pursuant to NRCPC 12
27 (b)(5) under the legal doctrines of non-mutual claims preclusion and res judicata. Seven
28

1 remaining defendants, five of which recorded title claims adverse to Tobin after the prior
2 litigation. filed joinders thereto. All Defendants submitted disputed, unverified evidence to the
3 Court to support Red Rock's motion to dismiss and their joinders thereto. This instant appeal is
4 to vacate the order awarding Brittany Wood, attorney for Brian Chiesi, Debora Chiesi and
5 Quicken Loans, \$8,999 attorney fees and costs for filing a joinder on their behalf along with a
6 request for judicial notice of a skewed sample of 10 of the 61 recorded claims in the Clark
7 County official records, and none of the two Lis Pendens Tobin recorded before Ms. Wood's
8 clients recorded their claims adverse to Tobin. Ms. Woods request of judicial notice of seven
9 filings in the prior court record failed to include seven of the 10 dispositive orders in the prior
10 litigation that adversely affected Tobin without appeal. Wood failed to request notice of two of
11 the three disputed deeds of trust, one of which still encumbered the property for a month after
12 her clients recorded their deed of trust. Wood misrepresented the motions to intervene she
13 included and ignored three others that are germane to the current case. Finally she failed to
14 draw the court's attention to the Lis Pendens Tobin recorded related to this case and the
15 pending appeals of the prior litigation that her clients would be bound by if Tobin's case had
16 been allowed to be actually heard on its merits rather than dismissed after all evidence had been
17 excluded from judicial scrutiny.
18
19
20

21 Instead of hearing the Motion as one for Summary Judgment¹, the Court ruled that the First
22 Amended Complaint did not survive the Motion to Dismiss¹ and granted the motion, dismissing
23
24

25 ¹ Nev. R. Civ. P. 12

26 **(d)Result of Presenting Matters Outside the Pleadings.** If, on a motion under Rule 12(b)(5) or 12(c), matters
27 outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary
28 judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is
pertinent to the motion.

1 the action with prejudice in its entirety². The Order Granting the Motion to Dismiss was entered
2 on December 3, 2020 and will be appealed separately.

3 On October 29, 2020,³ Judge Johnson heard defendants', Brian Chiesi, an individual,
4 Debora Chiesi, an individual, and Quicken Loans, Inc., 9/16/20 Motion for Attorney Fees and
5 Costs⁴ and Tobin's 10/8/20 opposition⁵. Wood filed a reply on 10/19/20.⁶

7 On November 17, 2020, at 9:02 AM,⁷ Judge Johnson filed an order granting Brian & Debora
8 Chiesi's and Quicken loans' motion for \$8,640 in attorney fees and \$308.99.

9 Fifteen minutes later on 11/17/20, Ms. Woods filed Notice of Entry of Order granting attorney
10 fees.⁸

13
14 ¹ In reviewing a motion to dismiss under Nev. R. Civ. P. 12(b)(5), the court must accept all facts in the complaint as
15 true, construe the pleadings liberally, and draw all possible inferences in favor of the nonmoving party. See *Buzz
Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 (2008).

16 ² In considering a motion to dismiss, "all well-pleaded allegations of material fact are taken as true and construed in
17 a light most favorable to the non-moving party." *Wyler Summit P'ship v. Turner Broad. Sys., Inc.*, 135 F.3d 658,
18 661 (9th Cir. 1998) (citation omitted). However, the Court does not necessarily assume the truth of legal
19 conclusions merely because they are cast in the form of factual allegations in Plaintiffs' Complaint. See *Clegg v.
20 Cult Awareness Network*, 18 F.3d 752, 754-55 (9th Cir. 1994). The issue is not whether Plaintiffs ultimately will
21 prevail, but whether they may offer evidence in support of their claims. *Gilligan v. Jamco Dev. Corp.*, 108 F.3d 246,
22 249 (9th Cir. 1997) (quoting *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)). Consequently, the Court may not grant
23 a motion to dismiss for failure to state a claim "unless it appears beyond doubt that the Plaintiff can prove no set of
24 facts in support of his claim which would entitle him to relief." *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957); see
25 also *Hicks v. Small*, 69 F.3d 967, 969 (9th Cir. 1995).

26 *Butts v. Universal Health Services, Inc.*, No. 2:05-CV-01434-PMP-LRL, at *3-4 (D. Nev. July 6, 2006)

27 ³ [10/29/20 hearing minutes](#)

28 ⁴ [9/16/20 Motion for Attorney Fees and Costs](#)

⁵ [10/8/20 opposition](#) to Chiesi/Quicken

⁶ [10/19/20 Chiesi/Quicken reply](#)

⁷ [11/17/20 order granting motion for Chiesi/Quicken motion for attorney fees & costs](#)

⁸ [11/17/20 NEOJ order for Chiesi-Quicken fees](#)

1 An hour later on 11/17/20, the court filed an order to statistically close the case¹ prior to an
2 order having been entered that granted Red Rock's motion to dismiss and all the joinders.

3 Two weeks later, on 12/3/20, Red Rock filed the order granting the motion to dismiss and
4 joinders² that Red Rock had prepared and circulated and the notice of entry of order³ 10
5 minutes later.
6

7 Appellants are appealing the November 17,, 2020 Order because it, *inter alia*: (1)
8 incorrectly applied NRS 18.010(2)(b) in awarding attorney fees to Respondents; (2) failed to
9 adequately assess the factors enumerated in *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345,
10 349, 455 P.2d 31, 33 (1969) in awarding attorney fees to Respondents; (3) incorrectly awarded
11 certain costs to Respondents; and (4) incorrectly found facts and law not in the record when
12 making the award of attorney fees and costs. Appellants therefore appeal the November 17,
13 2020 Order pursuant to NRAP 3(A)(b)(8).
14

15 11. Indicate whether the case has previously been the subject of an appeal to or
16 original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket
17 number of the prior proceeding:
18

19 This case is currently not the subject of a pending appeal in the Supreme Court,
20 but will be shortly as the order entered on 12/3/20 to dismiss all Plaintiff Tobin's claims with
21 prejudice will be appealed.
22

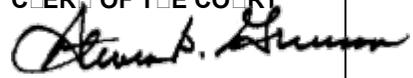
23 12. Indicate whether this appeal involves child custody or visitation:

24 This case does **not** involve child custody or visitation.
25

26 ¹ [11/17/20 OSCC](#)

27 ² [12/3/20 OGM motion to dismiss](#)

28 ³ [12/3/20 NODP notice of dismissal with prejudice](#)



1 JOHN W. THOMSON, ESQ.
2 Nevada Bar No. 5802
3 THOMSON LAW PC
4 2450 St. Rose Parkway, Suite 120
5 Henderson, NV 89074
6 (702) 478-8282 Telephone
7 (702) 541-9500 Facsimile
8 Email: johnwthomson@ymail.com
9 Attorney for Plaintiff Nona Tobin

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 NONA TOBIN, an Individual

10 Plaintiff,

11 vs.

12
13 BRIAN CHIESI, an individual; DEBORA
14 CHIESI, an individual; QUICKEN LOANS
15 INC.; JOEL A. STOKES, an individual;
16 JOEL A. STOKES and SANDRA STOKES
17 as Trustees of JIMI JACK IRREVOCABLE
18 TRUST; JIMI JACK IRREVOCABLE
19 TRUST; NATIONSTAR MORTGAGE LLC;
20 RED ROCK FINANCIAL SERVICES;
21 DOES I through X inclusive; and ROE
22 CORPORATIONS I through V, inclusive

23 Defendants.

Case No.: A-19-799890-C
Dept No.: 22

NOTICE OF POSTING OF COST BOND

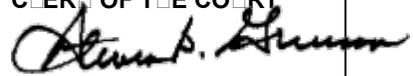
24 PLEASE TAKE NOTICE that NONA TOBIN posted a cost bond in the amount of
25 \$500.00 on December 17, 2020.

26 DATED this 17th day of December, 2020

27 LAW OFFICE OF JOHN W. THOMSON

28 By: /s/John W. Thomson

JOHN W. THOMSON, ESQ.
Nevada Bar No. 5802
2450 St. Rose Parkway, Suite 120
Henderson, Nevada 89074
Attorney for Plaintiff



1 JOHN W. THOMSON, ESQ.
2 Nevada Bar No. 5802
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4 2450 St. Rose Parkway, Suite 120
5 Henderson, NV 89074
6 (702) 478-8282 Telephone
7 (702) 541-9500 Facsimile
8 Email: johnwthomson@ymail.com
9 Attorney for Plaintiff Nona Tobin

7
8 **IN THE EIGHTH DISTRICT COURT OF THE**
9 **STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK**

10 NONA TOBIN, an Individual

11 Plaintiff,

12 vs.

13 BRIAN CHIESI, an individual; DEBORA
14 CHIESI, an individual; QUICKEN LOANS
15 INC.; JOEL A. STOKES, an individual;
16 JOEL A. STOKES and SANDRA STOKES
17 as Trustees of JIMI JACK IRREVOCABLE
18 TRUST; JIMI JACK IRREVOCABLE
19 TRUST; NATIONSTAR MORTGAGE LLC;
20 RED ROCK FINANCIAL SERVICES;
21 DOES I through X inclusive; and ROE
22 CORPORATIONS I through V, inclusive

23 Defendants.

Case No.: A-19-799890-C

Dept No.: 22

**NOTICE OF APPEAL
TO THE SUPREME COURT, STATE
OF NEVADA**

21 Notice is hereby given that Plaintiff/Appellant Nona Tobin, by and through her attorney,
22 John W. Thomson, Esq., of Thomson Law PC, does hereby appeal the *Order Granting Motion*
23 *for Attorney's Fees and Costs Filed by Defendants' Brian Chiesi, Debora Chiesi and Quicken*
24 *Loans, Inc., Pursuant to EDCR 7.60(b)(1) and/or (3)*, Notice of Entry filed on November 17,
25

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2020, in the District Court in and for the above-named county and state.

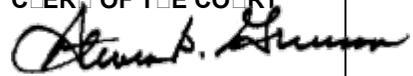
Dated this 17th day of December, 2020

THOMSON LAW PC

/s/ John W. Thomson
JOHN W. THOMSON
Nevada Bar No. 5802
2450 St. Rose Parkway, Suite 120
Henderson, Nevada 89074
Attorney for Nona Tobin

CERTIFICATE OF SERVICE

The undersigned, an employee of Thomson Law PC, hereby certifies that on the 17th day of December 2020, she caused a copy of the **NOTICE OF APPEAL TO THE SUPREME COURT, STATE OF NEVADA** to be served in accordance with Administrative Order 14.2, to all interested parties, through the Court’s Odyssey E-File & Serve system.



1 JOHN W. THOMSON, ESQ.
2 Nevada Bar No. 5802
3 THOMSON LAW PC
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5 Henderson, NV 89074
6 (702) 478-8282 Telephone
7 (702) 541-9500 Facsimile
8 Email: johnwthomson@ymail.com
9 Attorney for Plaintiff Nona Tobin

7 **IN THE EIGHTH DISTRICT COURT OF THE**
8 **STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK**

10 NONA TOBIN, an Individual

11 Plaintiff,

12 vs.

13 BRIAN CHIESI, an individual; DEBORA
14 CHIESI, an individual; QUICKEN LOANS
15 INC.; JOEL A. STOKES, an individual;
16 JOEL A. STOKES and SANDRA STOKES
17 as Trustees of JIMI JACK IRREVOCABLE
18 TRUST; JIMI JACK IRREVOCABLE
19 TRUST; NATIONSTAR MORTGAGE LLC;
20 RED ROCK FINANCIAL SERVICES;
21 DOES I through X inclusive; and ROE
22 CORPORATIONS I through V, inclusive

23 Defendants.

Case No.: A-19-799890-C

Dept No.: 22

**NONA TOBIN'S CASE APPEAL
STATEMENT
(ORDER GRANTING MOTION TO
DISMISS)**

21 NONA TOBIN, as an individual, by and through her undersigned attorney for the Case
22 Appeal Statement, states as follows:

- 24 1. Name of appellant filing this case appeal statement:
25 NONA TOBIN, as an individual.
- 26 2. Identify the judge issuing the decision, judgment, or order appealed from:
27 The Honorable Susan H. Johnson.
- 28 3. Identify each appellant and the name and address of counsel for each appellant:

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NONA TOBIN, an individual, Appellant

John W. Thomson, Esq.
Nevada Bar No. 5802
Thomson Law PC
2450 St. Rose Parkway, Suite 120
Henderson, Nevada 89074

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent’s appellate counsel is unknown, indicate as much and provide the name and address of that respondent’s trial counsel):

Each of Respondents’ appellate counsel is unknown. Trial counsel for each defendant was:

a. Red Rock Financial Services,

Brody B. Wight, Esq.
Nevada Bar No. 13615
KOCH & SCOW, LLC
11500 S. Eastern Ave., Suite 210
Henderson, NV 89052

b. Brian Chiesi and Debora Chiesi, and Quicken Loans Inc., nka

Quicken Loans, LLC

Brittany Wood, Esq.
Nevada Bar No. 7562
MAURICE WOOD
9525 Hillwood Dr., Suite 140
Las Vegas, NV 89134

c. Joel A. Stokes, Joel A. Stokes and Sandra Stokes, as Trustees of the

Jimijack Irrevocable Trust, and Jimijack Irrevocable Trust

Joseph Y. Hong, Esq.
Nevada Bar No. 5995
HONG & HONG LAW OFFICE

1 1980 Festival Plaza Dr., Suite 650
2 Las Vegas, NV 89135

3 5. Indicate whether any attorney identified above in response to question 3 or 4 is
4 not licensed to practice law in Nevada and, if so, whether the district court granted that attorney
5 permission to appear under SCR 42 (attach a copy of any district court order granting such
6 permission):

7 The attorneys identified above are licensed to practice law in Nevada.
8

9 6. Indicate whether appellant was represented by appointed or retained counsel in
10 the district court:

11 Appellant was represented by retained counsel:

12 John W. Thomson, Esq.
13 Nevada Bar No. 5802
14 Thomson Law PC
15 2450 St. Rose Parkway, Suite 120
16 Henderson, Nevada 89074

17 7. Indicate whether appellant is represented by appointed or retained counsel on
18 appeal:

19 Appellant is represented by retained counsel:

20 John W. Thomson, Esq.
21 Nevada Bar No. 5802
22 Thomson Law PC
23 2450 St. Rose Parkway, Suite 120
24 Henderson, Nevada 89074

25 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and
26 the date of entry of the district court granting such leave:

27 No.
28

1 9. Indicate the date the proceedings commenced in the district court (e.g., date
2 complaint, indictment, information, or petition was filed):

3 The original Complaint was filed on August 7, 2019, the First Amended
4 Complaint was filed on June 3, 2020.

5 10. Provide a brief description of the nature of the action and result in the district
6 court, including the type of judgment or order being appealed and the relief granted by the
7 district court:

8 Plaintiff Nona Tobin appeals the order of dismissal with prejudice entered on 12/3/20
9 that granted Defendant Red Rock Financial Services' motion to dismiss pursuant to NRCPC
10 12(b)(5) and (6) of Tobin's First Amended Complaint and all the joinders thereto.

11 Nona Tobin, an individual, filed a complaint for quiet title, unjust enrichment, and
12 declaratory relief against Red Rock Financial Services and the other defendants.

13 Tobin's previously adjudicated unjust enrichment claim against Red Rock is to obtain
14 the \$57,282.32 undistributed excess proceeds plus six years interest that Red Rock unlawfully
15 retained by obstructing Tobin's 2014 attempt to claim the proceeds after the disputed 2014
16 HOA foreclosure sale.

17 Tobin also had claims for relief of quiet title, declaratory relief and equitable
18 relief/unjust enrichment against Nationstar Mortgage that has engaged in various actions and
19 inactions to deprive Tobin of her title rights, cause Tobin damage, should be judicially estopped
20 from claiming to be the beneficial owner of the disputed Hansen deed of trust, and has no rights
21 to the undistributed proceeds of the disputed HOA sale.

22 Tobin claimed quiet title, declaratory relief and equitable relief/unjust enrichment
23 against Joel Stokes, an individual, who obstructed a fair adjudication of Tobin's claims in the
24

1 prior proceedings in Tobin's absence to deprive Tobin of her rights, to gain quiet title to the
2 subject property by obstructing Tobin's right to be heard, and, is judicially estopped from
3 claiming to ever have had a valid, admissible deed or any other proof of title.

4
5 Tobin's unjust enrichment claim and against Joel and Sandra Stokes for the retention of
6 over \$100,000 in rents collected after the disputed HOA sale.

7 Tobin's quiet title and equitable relief claims pursuant to NRS 40.010 were made
8 against current deedholders Brian and Debora Chiesi, current lienholder Quicken Loans, and
9 other defendants who had recorded other claims adverse to Tobin's title claim six months after
10 the trial in the prior proceedings, ignoring two Lis Pendens were on record regarding the instant
11 case and the appeal of the prior case.

12
13 Instead of hearing the Motion as one for Summary Judgment¹, the Court ruled that the
14 First Amended Complaint did not survive the Motion to Dismiss² and granted the motion,
15 dismissing the action with prejudice in its entirety³.

18 ¹ NRCP 12(d) Result of Presenting Matters Outside the Pleadings. If, on a motion under Rule 12(b)(5) or 12(c),
19 matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for
20 summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that
is pertinent to the motion.

21 ² In reviewing a motion to dismiss under NRCP 12(b)(5), the court must accept all facts in the complaint as true,
22 construe the pleadings liberally, and draw all possible inferences in favor of the nonmoving party. See *Buzz Stew,*
LLC vs. City of N. Las Vegas, 124 Nev. 224, 228 (2008)

23 ³ In considering a motion to dismiss, "all well-pleaded allegations of material fact are taken as true and construed in
24 a light most favorable to the non-moving party." *Wylar Summit P'ship v. Turner Broad. Sys., Inc.*, 135 F.3d 658,
25 661 (9th Cir. 1998) (citation omitted). However, the Court does not necessarily assume the truth of legal
26 conclusions merely because they are cast in the form of factual allegations in Plaintiffs' Complaint. See *Clegg v.*
Cult Awareness Network, 18 F.3d 752, 754-55 (9th Cir. 1994). The issue is not whether Plaintiffs ultimately will
27 prevail, but whether they may offer evidence in support of their claims. *Gilligan v. Jamco Dev. Corp.*, 108 F.3d 246,
249 (9th Cir. 1997) (quoting *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)). Consequently, the Court may not grant
28 a motion to dismiss for failure to state a claim "unless it appears beyond doubt that the Plaintiff can prove no set of
facts in support of his claim which would entitle him to relief." *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957); see
also *Hicks v. Small*, 69 F.3d 967, 969 (9th Cir. 1995).

Butts v. Universal Health Services, Inc., No. 2:05-CV-01434-PMP-LRL, at *3-4 (D. Nev. July 6, 2006)

1 11. Indicate whether the case has previously been the subject of an appeal to or
2 original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket
3 number of the prior proceeding:

4 This case is currently the subject of two pending appeals in the Supreme Court,
5 case 82094, appeal of the order, entered on 10/8/20, granting \$3,455 attorney fees and costs to
6 Joseph Hong as an EDCR 7.60 (b)(1)and/or (3) sanction, and case 82234, appeal of the order
7 entered on 11/17/20 granting Quicken/Chiesi attorney Brittany Wood \$8,999 if fees and costs
8 against Tobin for filing a joinder to Red Rock’s motion to dismiss and a request for judicial
9 notice that Tobin claims was duplicitous and unwarranted.
10

11 12. Indicate whether this appeal involves child custody or visitation:

12 This case does **not** involve child custody or visitation.

13 13. If this is a civil case, indicate whether this appeal involves the possibility of
14 settlement:
15

16 Settlement is possible, but unlikely.
17

18 Dated this 29th day of December 2020.

19 THOMSON LAW PC

20 /s/ John W. Thomson
21 JOHN W. THOMSON
22 Nevada Bar No. 5802
23 2450 St. Rose Parkway, Suite 120
24 Henderson, Nevada 89074
25 Attorney for Nona Tobin
26
27
28

1 **CERTIFICATE OF SERVICE**

2

3 I hereby certify that the foregoing **NONA TOBIN'S CASE APPEAL STATEMENT**

4 **(ORDER GRANTING MOTION TO DISMISS)** was submitted electronically for filing and/or

5 service with the Eighth Judicial District Court on this 29th day of December 2020. Electronic

6 service of the forgoing document shall be upon all parties listed on the Odyssey eFileNV

7 service contact list.

8

9 */s/ Annette Cooper*

10 An Employee of Thomson Law PC

1 named county and state.

2 Dated this 29th day of December, 2020

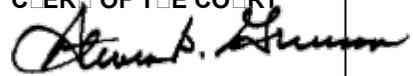
THOMSON LAW PC

3
4 /s/ John W. Thomson
5 JOHN W. THOMSON
6 Nevada Bar No. 5802
7 2450 St. Rose Parkway, Suite 120
8 Henderson, Nevada 89074
9 *Attorney for Nona Tobin*

10 **CERTIFICATE OF SERVICE**

11 The undersigned, an employee of Thomson Law PC, hereby certifies that on the 29th day
12 of December 2020, she caused a copy of the **NOTICE OF APPEAL** to be served in accordance
13 with Administrative Order 14.2, to all interested parties, through the Court's Odyssey E-File &
14 Serve system.

15
16
17 /s/ Annette Cooper
18 An employee of Thomson Law PC



1 JOHN W. THOMSON, ESQ.
2 Nevada Bar No. 5802
3 THOMSON LAW PC
4 2450 St. Rose Parkway, Suite 120
5 Henderson, NV 89074
6 (702) 478-8282 Telephone
7 (702) 541-9500 Facsimile
8 Email: johnwthomson@ymail.com
9 Attorney for Plaintiff Nona Tobin

7 **IN THE EIGHTH DISTRICT COURT OF THE**
8 **STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK**

10 NONA TOBIN, an Individual

11 Plaintiff,

12 vs.

13 BRIAN CHIESI, an individual; DEBORA
14 CHIESI, an individual; QUICKEN LOANS
15 INC.; JOEL A. STOKES, an individual;
16 JOEL A. STOKES and SANDRA STOKES
17 as Trustees of JIMI JACK IRREVOCABLE
18 TRUST; JIMI JACK IRREVOCABLE
19 TRUST; NATIONSTAR MORTGAGE LLC;
20 RED ROCK FINANCIAL SERVICES;
21 DOES I through X inclusive; and ROE
22 CORPORATIONS I through V, inclusive

23 Defendants.

Case No.: A-19-799890-C

Dept No.: 22

**NONA TOBIN'S CASE APPEAL
STATEMENT
(ORDER GRANTING MOTION TO
DISMISS)**

21 NONA TOBIN, as an individual, by and through her undersigned attorney for the Case
22 Appeal Statement, states as follows:

- 23 1. Name of appellant filing this case appeal statement:
24 NONA TOBIN, as an individual.
- 25 2. Identify the judge issuing the decision, judgment, or order appealed from:
26 The Honorable Susan H. Johnson.
- 27 3. Identify each appellant and the name and address of counsel for each appellant:
28

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NONA TOBIN, an individual, Appellant

John W. Thomson, Esq.
Nevada Bar No. 5802
Thomson Law PC
2450 St. Rose Parkway, Suite 120
Henderson, Nevada 89074

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent’s appellate counsel is unknown, indicate as much and provide the name and address of that respondent’s trial counsel):

Each of Respondents’ appellate counsel is unknown. Trial counsel for each defendant was:

a. Red Rock Financial Services,

Brody B. Wight, Esq.
Nevada Bar No. 13615
KOCH & SCOW, LLC
11500 S. Eastern Ave., Suite 210
Henderson, NV 89052

b. Brian Chiesi and Debora Chiesi, and Quicken Loans Inc., nka

Quicken Loans, LLC

Brittany Wood, Esq.
Nevada Bar No. 7562
MAURICE WOOD
9525 Hillwood Dr., Suite 140
Las Vegas, NV 89134

c. Joel A. Stokes, Joel A. Stokes and Sandra Stokes, as Trustees of the

Jimijack Irrevocable Trust, and Jimijack Irrevocable Trust

Joseph Y. Hong, Esq.
Nevada Bar No. 5995
HONG & HONG LAW OFFICE

1 1980 Festival Plaza Dr., Suite 650
2 Las Vegas, NV 89135

3 5. Indicate whether any attorney identified above in response to question 3 or 4 is
4 not licensed to practice law in Nevada and, if so, whether the district court granted that attorney
5 permission to appear under SCR 42 (attach a copy of any district court order granting such
6 permission):

7 The attorneys identified above are licensed to practice law in Nevada.
8

9 6. Indicate whether appellant was represented by appointed or retained counsel in
10 the district court:

11 Appellant was represented by retained counsel:

12 John W. Thomson, Esq.
13 Nevada Bar No. 5802
14 Thomson Law PC
15 2450 St. Rose Parkway, Suite 120
16 Henderson, Nevada 89074

17 7. Indicate whether appellant is represented by appointed or retained counsel on
18 appeal:

19 Appellant is represented by retained counsel:

20 John W. Thomson, Esq.
21 Nevada Bar No. 5802
22 Thomson Law PC
23 2450 St. Rose Parkway, Suite 120
24 Henderson, Nevada 89074

25 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and
26 the date of entry of the district court granting such leave:

27 No.
28

1 9. Indicate the date the proceedings commenced in the district court (e.g., date
2 complaint, indictment, information, or petition was filed):

3 The original Complaint was filed on August 7, 2019, the First Amended
4 Complaint was filed on June 3, 2020.

5 10. Provide a brief description of the nature of the action and result in the district
6 court, including the type of judgment or order being appealed and the relief granted by the
7 district court:

8 Plaintiff Nona Tobin appeals the order of dismissal with prejudice entered on 12/3/20
9 that granted Defendant Red Rock Financial Services' motion to dismiss pursuant to NRC
10 12(b)(5) and (6) of Tobin's First Amended Complaint and all the joinders thereto.
11

12 Nona Tobin, an individual, filed a complaint for quiet title, unjust enrichment, and
13 declaratory relief against Red Rock Financial Services and the other defendants.
14

15 Tobin's previously adjudicated unjust enrichment claim against Red Rock is to obtain
16 the \$57,282.32 undistributed excess proceeds plus six years interest that Red Rock unlawfully
17 retained by obstructing Tobin's 2014 attempt to claim the proceeds after the disputed 2014
18 HOA foreclosure sale.
19

20 Tobin also had claims for relief of quiet title, declaratory relief and equitable
21 relief/unjust enrichment against Nationstar Mortgage that has engaged in various actions and
22 inactions to deprive Tobin of her title rights, cause Tobin damage, should be judicially estopped
23 from claiming to be the beneficial owner of the disputed Hansen deed of trust, and has no rights
24 to the undistributed proceeds of the disputed HOA sale.
25

26 Tobin claimed quiet title, declaratory relief and equitable relief/unjust enrichment
27 against Joel Stokes, an individual, who obstructed a fair adjudication of Tobin's claims in the
28

1 prior proceedings in Tobin's absence to deprive Tobin of her rights, to gain quiet title to the
2 subject property by obstructing Tobin's right to be heard, and, is judicially estopped from
3 claiming to ever have had a valid, admissible deed or any other proof of title.

4
5 Tobin's unjust enrichment claim and against Joel and Sandra Stokes for the retention of
6 over \$100,000 in rents collected after the disputed HOA sale.

7 Tobin's quiet title and equitable relief claims pursuant to NRS 40.010 were made
8 against current deedholders Brian and Debora Chiesi, current lienholder Quicken Loans, and
9 other defendants who had recorded other claims adverse to Tobin's title claim six months after
10 the trial in the prior proceedings, ignoring two Lis Pendens were on record regarding the instant
11 case and the appeal of the prior case.

12
13 Instead of hearing the Motion as one for Summary Judgment¹, the Court ruled that the
14 First Amended Complaint did not survive the Motion to Dismiss² and granted the motion,
15 dismissing the action with prejudice in its entirety³.

18 ¹ NRCP 12(d) Result of Presenting Matters Outside the Pleadings. If, on a motion under Rule 12(b)(5) or 12(c),
19 matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for
20 summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that
is pertinent to the motion.

21 ² In reviewing a motion to dismiss under NRCP 12(b)(5), the court must accept all facts in the complaint as true,
22 construe the pleadings liberally, and draw all possible inferences in favor of the nonmoving party. See *Buzz Stew,*
LLC vs. City of N. Las Vegas, 124 Nev. 224, 228 (2008)

23 ³ In considering a motion to dismiss, "all well-pleaded allegations of material fact are taken as true and construed in
24 a light most favorable to the non-moving party." *Wylar Summit P'ship v. Turner Broad. Sys., Inc.*, 135 F.3d 658,
25 661 (9th Cir. 1998) (citation omitted). However, the Court does not necessarily assume the truth of legal
26 conclusions merely because they are cast in the form of factual allegations in Plaintiffs' Complaint. See *Clegg v.*
Cult Awareness Network, 18 F.3d 752, 754-55 (9th Cir. 1994). The issue is not whether Plaintiffs ultimately will
27 prevail, but whether they may offer evidence in support of their claims. *Gilligan v. Jamco Dev. Corp.*, 108 F.3d 246,
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Butts v. Universal Health Services, Inc., No. 2:05-CV-01434-PMP-LRL, at *3-4 (D. Nev. July 6, 2006)

1 11. Indicate whether the case has previously been the subject of an appeal to or
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3 number of the prior proceeding:

4 This case is currently the subject of two pending appeals in the Supreme Court,
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8 against Tobin for filing a joinder to Red Rock’s motion to dismiss and a request for judicial
9 notice that Tobin claims was duplicitous and unwarranted.
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11 12. Indicate whether this appeal involves child custody or visitation:

12 This case does **not** involve child custody or visitation.

13 13. If this is a civil case, indicate whether this appeal involves the possibility of
14 settlement:
15

16 Settlement is possible, but unlikely.
17

18 Dated this 29th day of December 2020.

19 THOMSON LAW PC

20 /s/ John W. Thomson
21 JOHN W. THOMSON
22 Nevada Bar No. 5802
23 2450 St. Rose Parkway, Suite 120
24 Henderson, Nevada 89074
25 *Attorney for Nona Tobin*
26
27
28

1 **CERTIFICATE OF SERVICE**

2

3 I hereby certify that the foregoing **NONA TOBIN'S CASE APPEAL STATEMENT**

4 **(ORDER GRANTING MOTION TO DISMISS)** was submitted electronically for filing and/or

5 service with the Eighth Judicial District Court on this 29th day of December 2020. Electronic

6 service of the forgoing document shall be upon all parties listed on the Odyssey eFileNV

7 service contact list.

8

9 */s/ Annette Cooper*

10 An Employee of Thomson Law PC

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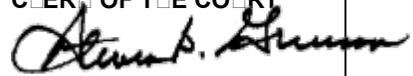
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28



1 JOHN W. THOMSON, ESQ.
2 Nevada Bar No. 5802
3 THOMSON LAW PC
4 2450 St. Rose Parkway, Suite 120
5 Henderson, NV 89074
6 (702) 478-8282 Telephone
7 (702) 541-9500 Facsimile
8 Email: johnwthomson@ymail.com
9 Attorney for Plaintiff Nona Tobin

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 NONA TOBIN, an Individual

10 Plaintiff,

11 vs.

12
13 BRIAN CHIESI, an individual; DEBORA
14 CHIESI, an individual; QUICKEN LOANS
15 INC.; JOEL A. STOKES, an individual;
16 JOEL A. STOKES and SANDRA STOKES
17 as Trustees of JIMI JACK IRREVOCABLE
18 TRUST; JIMI JACK IRREVOCABLE
19 TRUST; NATIONSTAR MORTGAGE LLC;
20 RED ROCK FINANCIAL SERVICES;
21 DOES I through X inclusive; and ROE
22 CORPORATIONS I through V, inclusive

23 Defendants.

Case No.: A-19-799890-C
Dept No.: 22

NOTICE OF POSTING OF COST BOND

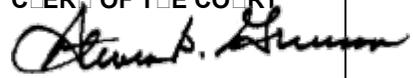
24 PLEASE TAKE NOTICE that NONA TOBIN posted a cost bond in the amount of
25 \$500.00 on December 30, 2020.

26 DATED this 30th day of December, 2020

27 LAW OFFICE OF JOHN W. THOMSON

28 By: /s/John W. Thomson

JOHN W. THOMSON, ESQ.
Nevada Bar No. 5802
2450 St. Rose Parkway, Suite 120
Henderson, Nevada 89074
Attorney for Plaintiff



1 JOHN W. THOMSON, ESQ.
2 Nevada Bar No. 5802
3 THOMSON LAW PC
4 2450 St. Rose Parkway, Suite 120
5 Henderson, NV 89074
6 (702) 478-8282 Telephone
7 (702) 541-9500 Facsimile
8 Email: johnwthomson@ymail.com
9 Attorney for Plaintiff Nona Tobin

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 NONA TOBIN, an Individual

10 Plaintiff,

11 vs.

12
13 BRIAN CHIESI, an individual; DEBORA
14 CHIESI, an individual; QUICKEN LOANS
15 INC.; JOEL A. STOKES, an individual;
16 JOEL A. STOKES and SANDRA STOKES
17 as Trustees of JIMI JACK IRREVOCABLE
18 TRUST; JIMI JACK IRREVOCABLE
19 TRUST; NATIONSTAR MORTGAGE LLC;
20 RED ROCK FINANCIAL SERVICES;
21 DOES I through X inclusive; and ROE
22 CORPORATIONS I through V, inclusive

23 Defendants.

Case No.: A-19-799890-C
Dept No.: 22

REQUEST FOR TRANSCRIPTS

24 Nona Tobin, Plaintiff has requested transcripts of the following dates of previous
25 hearings which were held in Department 22. This Request for Transcripts pleading was requested
26 by Norma Ramirez. The hearing dates are as follows:

27 August 11, 2020

28 October 29, 2020

1 November 3, 2020

2 Dated this 30th day of December, 2020.

3
4 THOMSON LAW PC

5 /s/ John W. Thomson

6 JOHN W. THOMSON, ESQ.

7 Nevada Bar No. 5802

8 2450 St. Rose Parkway, Suite 120

9 Henderson, Nevada 89074

10 *Attorney for Plaintiff Nona Tobin*

11
12 **CERTIFICATE OF SERVICE**

13 I HEREBY CERTIFY that on the 30th day of December, 2020, a copy of the foregoing
14 **REQUEST FOR TRANSCRIPTS** to be served electronically to all parties of interest through
15 Wiznet, the Eighth Judicial Court's electronic filing system.

16 /s/ Annette Cooper

17 An Employee of Thomson Law PC

CASE SUMMARY

CASE NO. A-19-799890-C

Nona Tobin, Plaintiff(s)
vs.
Joel Stokes, Defendant(s)

§
§
§
§
§
§
§

Location: **Department 22**
 Judicial Officer: **Johnson, Susan**
 Filed on: **08/07/2019**
 Cross-Reference Case Number: **A799890**
 Supreme Court No.: **82094**
82234

CASE INFORMATION

Statistical Closures

11/17/2020 Motion to Dismiss by the Defendant(s)

Case Type: **Other Title to Property**

Case Status: **11/17/2020 Dismissed**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-19-799890-C
Court	Department 22
Date Assigned	08/07/2019
Judicial Officer	Johnson, Susan

PARTY INFORMATION

Plaintiff	Tobin, Nona	Thomson, John W. <i>Retained</i> 702-478-8282(W)
Defendant	Bank of America Removed: 06/03/2020 Inactive	
	Barbee, Forrest Removed: 06/03/2020 Inactive	
	Chiesti, Brian Removed: 12/03/2020 Dismissed	Maurice, Aaron R. <i>Retained</i> 702-463-7616(W)
	Chiesti, Debora Removed: 12/03/2020 Dismissed	Maurice, Aaron R. <i>Retained</i> 702-463-7616(W)
	Corwin, Cluyanne M Removed: 06/03/2020 Inactive	
	Crain, Youda Removed: 06/03/2020 Inactive	
	F. Bondurant LLC Removed: 06/03/2020 Inactive	
	Hong, Joseph Removed: 06/03/2020 Inactive	
	Jimijack Irrevocable Trust Removed: 12/03/2020	Hong, Joseph Y. <i>Retained</i>

CASE SUMMARY

CASE NO. A-19-799890-C

Dismissed

702-870-1777(W)

Lee, Yuen K

Removed: 06/03/2020
Inactive

Lucas, Thomas

Removed: 06/03/2020
Inactive

Morgan, Melanie

Removed: 06/03/2020
Inactive

Nationstar Mortgage LLC

Removed: 12/03/2020
Dismissed

Wittig, Donna

Retained
702-634-5000(W)

Ochoa, David

Removed: 06/03/2020
Inactive

Opportunity Homes LLC

Removed: 06/03/2020
Inactive

Quicken Loans Inc

Removed: 12/03/2020
Dismissed

Maurice, Aaron R.

Retained
702-463-7616(W)

Red Rock Financial Services

Removed: 12/03/2020
Dismissed

Wight, Brody R.

Retained
702-318-5040(W)

Scow, Steven

Removed: 06/03/2020
Inactive

Stokes, Joel A

Hong, Joseph Y.

Retained
702-870-1777(W)

Stokes, Sandra

Removed: 12/03/2020
Dismissed

Hong, Joseph Y.

Retained
702-870-1777(W)

Williams, Teresa D

Removed: 06/03/2020
Inactive

DATE	EVENTS & ORDERS OF THE COURT	INDEX
<u>EVENTS</u>		
08/07/2019	 Complaint Filed By: Plaintiff Tobin, Nona <i>Complaint for Quiet Title, and Equitable, Declaratory, and Injunctive Relief</i>	
08/13/2019	 Notice of Lis Pendens Filed by: Plaintiff Tobin, Nona <i>Notice of Lis Pendens</i>	
08/22/2019	 Notice <i>Notice of Change of Case Designation / Suffix</i>	
12/04/2019	 Notice of Appearance	

CASE SUMMARY

CASE NO. A-19-799890-C

Party: Plaintiff Tobin, Nona
Notice Of Appearance of Counsel

- 12/05/2019  Ex Parte Motion
Filed By: Plaintiff Tobin, Nona
Plaintiff's Ex Parte Motion to Extend Time to Serve Summons and Complaint (First Request)

- 12/10/2019  Ex Parte Order
Filed By: Plaintiff Tobin, Nona
Ex-Parte Order to Exten Time to Serve Summons and Complaint

- 12/10/2019  Notice of Entry of Order
Filed By: Plaintiff Tobin, Nona
Notice of Entry of Order

- 01/31/2020  Ex Parte Motion
Filed By: Plaintiff Tobin, Nona
Ex Parte Motion to Extend Time to Serve Summons and Complaint (Second Request)

- 02/05/2020  Order Extending Time to Serve
Filed By: Plaintiff Tobin, Nona
Order To Extend Time To Serve Summons and Complaint

- 02/05/2020  Notice of Entry of Order
Filed By: Plaintiff Tobin, Nona
Notice Of Entry Of Order

- 04/02/2020  Ex Parte Application to Extend Time for Service
Filed By: Plaintiff Tobin, Nona
Ex Parte Motion to Extend Time to Serve Complaint

- 04/06/2020  Order Extending Time to Serve
Order to Extend Time to Serve Summons and Complaint

- 04/06/2020  Order
Filed By: Plaintiff Tobin, Nona
Order To Extend Time To Serve Summons And Complaint

- 04/07/2020  Notice of Entry of Order
Filed By: Plaintiff Tobin, Nona
Notice of Entry of Order

- 06/03/2020  First Amended Complaint
Filed By: Plaintiff Tobin, Nona
First Amended Complaint

- 06/03/2020  Summons Electronically Issued - Service Pending
Party: Plaintiff Tobin, Nona
Summons

- 06/03/2020  Summons Electronically Issued - Service Pending
Party: Plaintiff Tobin, Nona
Summons

CASE SUMMARY

CASE NO. A-19-799890-C

- 06/03/2020  Summons Electronically Issued - Service Pending
Party: Plaintiff Tobin, Nona
Summons
- 06/03/2020  Summons Electronically Issued - Service Pending
Party: Plaintiff Tobin, Nona
Summons
- 06/03/2020  Summons Electronically Issued - Service Pending
Party: Plaintiff Tobin, Nona
Summons
- 06/03/2020  Summons Electronically Issued - Service Pending
Party: Plaintiff Tobin, Nona
Summons
- 06/03/2020  Summons Electronically Issued - Service Pending
Party: Plaintiff Tobin, Nona
Summons
- 06/03/2020  Summons Electronically Issued - Service Pending
Party: Plaintiff Tobin, Nona
Summons
- 06/03/2020  Summons Electronically Issued - Service Pending
Party: Plaintiff Tobin, Nona
Summons
- 06/05/2020  Affidavit of Service
Filed By: Plaintiff Tobin, Nona
Affidavit of Service
- 06/05/2020  Affidavit of Service
Affidavit of Service
- 06/10/2020  Affidavit of Service
Filed By: Plaintiff Tobin, Nona
Affidavit of Service
- 06/10/2020  Affidavit of Service
Filed By: Plaintiff Tobin, Nona
Affidavit of Service
- 06/23/2020  Initial Appearance Fee Disclosure
Filed By: Defendant Red Rock Financial Services
Initial Appearance Fee Disclosure
- 06/23/2020  Motion to Dismiss
Filed By: Defendant Red Rock Financial Services
Defendant Red Rock Financial Services, LLC's Motion to Dismiss Complaint Pursuant to NRCP 12(b)(5) and (6)
- 06/23/2020  Clerk's Notice of Hearing
Notice of Hearing

CASE SUMMARY

CASE NO. A-19-799890-C

06/25/2020



Joinder To Motion

Filed By: Defendant Nationstar Mortgage LLC
Nationstar's Joinder to Defendant Red Rock Financial Services' Motion to Dismiss First Amended Complaint

06/25/2020



Initial Appearance Fee Disclosure

Filed By: Defendant Nationstar Mortgage LLC
Initial Appearance Fee Disclosure

06/25/2020



Joinder To Motion

Filed By: Defendant Stokes, Joel A; Defendant Jimijack Irrevocable Trust; Defendant Stokes, Sandra
Joel A. Stokes, Joel A. Stokes And Sandra Stokes, As Trustees Of The Jimijack Irrevocable Trust, And Jimijack Irrevocable Trust s Joinder To Defendant, Red Rock Financial Services , Motion To Dismiss First Amended Complaint And For Attorney s Fees And Costs Pursuant To E.D.C.R. Rule 7.60(b)(1) And/Or (3)

06/25/2020



Initial Appearance Fee Disclosure

Filed By: Defendant Stokes, Joel A; Defendant Stokes, Sandra
Initial Appearance Fee Disclosure

07/01/2020



Affidavit of Service

Filed By: Plaintiff Tobin, Nona
Party Served: Defendant Stokes, Joel A
Affidavit of Service - Joel Stokes

07/01/2020



Affidavit of Service

Filed By: Plaintiff Tobin, Nona
Party Served: Defendant Stokes, Sandra
Affidavit of Service - Sandra Stokes

07/01/2020



Affidavit of Service

Filed By: Plaintiff Tobin, Nona
Party Served: Defendant Jimijack Irrevocable Trust
Affidavit of Service - Jimijack Irrevocable trust

07/06/2020



Joinder To Motion

Filed By: Defendant Quicken Loans Inc; Defendant Chiesti, Brian; Defendant Chiesti, Debora
Brian and Debora Chiesi and Quicken Loan Inc.'s Joinder to Defendant Red Rock Financial Service's Motion to Dismiss Plaintiff's Amended Complaint

07/06/2020



Request for Judicial Notice

Filed By: Defendant Quicken Loans Inc; Defendant Chiesti, Brian; Defendant Chiesti, Debora
Request for Judicial Notice

07/06/2020



Initial Appearance Fee Disclosure

Filed By: Defendant Quicken Loans Inc; Defendant Chiesti, Brian; Defendant Chiesti, Debora
Initial Appearance Fee Disclosure

07/13/2020



Stipulation and Order

Filed by: Plaintiff Tobin, Nona
Stipulation And Order To Reschedule Hairng For Defendant Red Rock Financial Services,

CASE SUMMARY

CASE NO. A-19-799890-C

LLC's Motion to Dismiss Complaint Pursuant to NRCPC 12(B)(5) And (6) Joinders Thereto, and Request For Judicial Notice

07/14/2020



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Tobin, Nona

Notice of Entry of Stipulation And Order to Reschedule Hearing For Defendant Red Rock Financial Services, LLC's Motion to Dismiss Complaint Pursuant to NRCPC 12(B)(5) And (6) Joinders Thereto, And Request For Judicial Notice

07/20/2020



Opposition to Motion to Dismiss

Filed By: Plaintiff Tobin, Nona

Opposition to Motion to Dismiss and to Joinder Thereto

08/03/2020



Reply in Support

Filed By: Defendant Quicken Loans Inc; Defendant Chiesti, Brian; Defendant Chiesti, Debora

Brian and Debora Chiesi and Quicken Loans, LLC's Reply to Plaintiff's Opposition to Motion to Dismiss and Joinders thereto

08/03/2020



Reply in Support

Filed By: Defendant Red Rock Financial Services

Defendant Red Rock Financial Services' Reply in Support of its Motion to Dismiss the Complaint Pursuant to NRCPC 12(b)(5) and (6)

08/03/2020



Reply in Support

Filed By: Defendant Stokes, Joel A; Defendant Jimijack Irrevocable Trust; Defendant Stokes, Sandra

Joel A. Stokes, Joel A. Stokes And Sandra Stokes, As Trustees Of The Jimijack Irrevocable Trust, And Jimijack Irrevocable Trust s Reply In Support Of Joinder To Defendant, Red Rock Financial Services , Motion To Dismiss First Amended Complaint And For Attorney s Fees And Costs Pursuant To E.D.C.R. Rule 7.60(b)(1) And/Or (3)

09/06/2020



Order Granting Motion

Order Granting Motion for Attorney's Fees and Costs Filed by Joel A. Stokes, Joel A. Stokes and Sandra Stokes, as Trustees of the Jimijack Irrevocable Trust and Jimijack Irrevocable Trust, Pursuant to EDCR 7.60(b)(1) and/or (3)

09/16/2020



Motion for Attorney Fees and Costs

Filed By: Defendant Quicken Loans Inc; Defendant Chiesti, Brian; Defendant Chiesti, Debora

Motion for Attorney's Fees and Costs

09/17/2020



Clerk's Notice of Hearing

Notice of Hearing

10/08/2020



Notice of Entry of Order

Filed By: Defendant Stokes, Joel A; Defendant Jimijack Irrevocable Trust; Defendant Stokes, Sandra

Notice Of Entry Of Order Granting Motion For Attorney s Fees And Costs Filed By Joel A. Stokes, Joel A. Stokes And Sandra Stokes, As Trustees Of The Jimijack Irrevocable Trust, And Jimijack Irrevocable Trust, Pursuant To EDCR 7.60(b)(1) And/Or (3)

10/08/2020



Opposition to Motion

Filed By: Plaintiff Tobin, Nona

Opposition to Chiesi and Quicken Loans Motion for Attorney Fees and Costs

10/16/2020

CASE SUMMARY

CASE NO. A-19-799890-C

-  Order Shortening Time
Defendants, Joel A. Stokes and Sandra Stokes, as Trustees of The JimiJack Irrevocable Trust and JimiJack Irrevocable Trust's, Motion to Enforce Order for Attorney's Fees and Costs and for Contempt and for Attorney's Fees and Costs Pursuant to E.D.C.R. Rule 7.60(b)(3) and/or (5) and Order Shortening Time
- 10/16/2020  Notice of Entry of Order
Filed By: Defendant Stokes, Joel A; Defendant JimiJack Irrevocable Trust; Defendant Stokes, Sandra
Notice Of Entry Of Order Shortening Time
- 10/19/2020  Reply to Opposition
Filed by: Defendant Chiesti, Brian
Reply to Plaintiff's Opposition to the Chiesi Defendants' Motion for Attorney's Fees and Costs
- 10/27/2020  Opposition to Motion
Filed By: Plaintiff Tobin, Nona
Opposition to Joel A. Stokes and Sandra Stokes, as Trustees of the JimiJack Irrevocable Trust and JimiJack Irrevocable Trust's Motion to Enforce Order for Attorney Fees and Costs and for Contempt and Order Shortening Time
- 11/09/2020  Notice of Appeal
Filed By: Plaintiff Tobin, Nona
Notice of Appeal to the Supreme Court, State of Nevada
- 11/09/2020  Case Appeal Statement
Filed By: Plaintiff Tobin, Nona
CASE APPEAL STATEMENT
- 11/09/2020  Notice of Posting of Cost Bond
Filed By: Plaintiff Tobin, Nona
NOTICE OF POSTING OF COST BOND
- 11/17/2020  Order Granting Motion
Order Granting Motion for Attorney's Fees and Costs
- 11/17/2020  Notice of Entry of Order
Filed By: Defendant Chiesti, Brian
Notice of Entry of Order
- 11/17/2020  Order to Statistically Close Case
Civil Order to Statistically Close Case - Motion to Dismiss by Defendant
- 12/03/2020  Order Granting Motion
Filed By: Defendant Red Rock Financial Services
Order Granting Defendant Red Rock Financial Services' Motion to Dismiss Complaint and All Joinders to the Motion
- 12/03/2020  Notice of Entry of Order for Dismissal With Prejudice
Filed By: Defendant Red Rock Financial Services
Notice of Entry of Order
- 12/17/2020  Notice of Appeal
Filed By: Plaintiff Tobin, Nona
Notice of Appeal

CASE SUMMARY

CASE NO. A-19-799890-C

- 12/17/2020  Case Appeal Statement
Filed By: Plaintiff Tobin, Nona
Case Appeal Statement
- 12/17/2020  Notice of Posting of Cost Bond
Filed By: Plaintiff Tobin, Nona
Notice of Posting of Cost Bond
- 12/29/2020  Notice of Appeal
Filed By: Plaintiff Tobin, Nona
Notice of Appeal to the Supreme Court, State of Nevada
- 12/29/2020  Case Appeal Statement
Filed By: Plaintiff Tobin, Nona
NONA TOBIN S CASE APPEAL STATEMENT (ORDER GRANTING MOTION TO DISMISS)
- 12/30/2020  Notice of Posting of Cost Bond
Filed By: Plaintiff Tobin, Nona
Notice of Posting of Cost Bond
- 12/30/2020  Transcript of Proceedings
Party: Plaintiff Tobin, Nona
Request for Transcripts

DISPOSITIONS

- 09/06/2020 **Order** (Judicial Officer: Johnson, Susan)
Debtors: Nona Tobin (Plaintiff)
Creditors: Joel A Stokes (Defendant), Jimijack Irrevocable Trust (Defendant), Sandra Stokes (Defendant)
Judgment: 09/06/2020, Docketed: 09/08/2020
Total Judgment: 3,455.00
- 11/17/2020 **Order** (Judicial Officer: Johnson, Susan)
Debtors: Nona Tobin (Plaintiff)
Creditors: Quicken Loans Inc (Defendant), Brian Chiesti (Defendant), Debora Chiesti (Defendant)
Judgment: 11/17/2020, Docketed: 11/19/2020
Total Judgment: 8,948.99
- 12/03/2020 **Order of Dismissal With Prejudice** (Judicial Officer: Johnson, Susan)
Debtors: Nona Tobin (Plaintiff)
Creditors: Quicken Loans Inc (Defendant), Joel A Stokes (Defendant), Jimijack Irrevocable Trust (Defendant), Nationstar Mortgage LLC (Defendant), Red Rock Financial Services (Defendant), Brian Chiesti (Defendant), Debora Chiesti (Defendant), Sandra Stokes (Defendant)
Judgment: 12/03/2020, Docketed: 12/04/2020

HEARINGS

- 08/11/2020 **Motion to Dismiss** (8:30 AM) (Judicial Officer: Johnson, Susan)
Defendant Red Rock Financial Services, LLC's Motion to Dismiss Complaint Pursuant to NRCP 12(b)(5) and (6)
07/28/2020 *Continued to 08/11/2020 - Stipulation and Order - Quicken Loans Inc; Tobin, Nona; Stokes, Joel A; Jimijack Irrevocable Trust; Nationstar Mortgage LLC; Red Rock Financial Services; Chiesti, Brian; Chiesti, Debora; Stokes, Sandra*
- 08/11/2020 **Joinder** (8:30 AM) (Judicial Officer: Johnson, Susan)
Nationstar's Joinder to Defendant Red Rock Financial Services' Motion to Dismiss First Amended Complaint

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-19-799890-C

07/28/2020 Continued to 08/11/2020 - Stipulation and Order - Quicken Loans Inc; Tobin, Nona; Stokes, Joel A; Jimijack Irrevocable Trust; Nationstar Mortgage LLC; Red Rock Financial Services; Chiesti, Brian; Chiesti, Debora; Stokes, Sandra

08/11/2020 **Joinder** (8:30 AM) (Judicial Officer: Johnson, Susan)
Joel A. Stokes, Joel A. Stokes And Sandra Stokes, As Trustees Of The Jimijack Irrevocable Trust, And Jimijack Irrevocable Trust s Joinder To Defendant, Red Rock Financial Services , Motion To Dismiss First Amended Complaint And For Attorney s Fees And Costs Pursuant To E.D.C.R. Rule 7.60(b)(1) And/Or (3)

07/28/2020 Continued to 08/11/2020 - Stipulation and Order - Quicken Loans Inc; Tobin, Nona; Stokes, Joel A; Jimijack Irrevocable Trust; Nationstar Mortgage LLC; Red Rock Financial Services; Chiesti, Brian; Chiesti, Debora; Stokes, Sandra

08/11/2020 **Joinder** (8:30 AM) (Judicial Officer: Johnson, Susan)
Brian and Debora Chiesi and Quicken Loan Inc.'s Joinder to Defendant Red Rock Financial Service's Motion to Dismiss Plaintiff's Amended Complaint

07/28/2020 Continued to 08/11/2020 - Stipulation and Order - Quicken Loans Inc; Tobin, Nona; Stokes, Joel A; Jimijack Irrevocable Trust; Nationstar Mortgage LLC; Red Rock Financial Services; Chiesti, Brian; Chiesti, Debora; Stokes, Sandra

08/11/2020  **All Pending Motions** (8:30 AM) (Judicial Officer: Johnson, Susan)

Matter Heard;
Journal Entry Details:
DEFENDANT RED ROCK FINANCIAL SERVICES, LLC'S MOTION TO DISMISS COMPLAINT PURSUANT TO NRCF 12(B)(5) AND (6) NATIONSTAR'S JOINDER TO DEFENDANT RED ROCK FINANCIAL SERVICES' MOTION TO DISMISS FIRST AMENDED COMPLAINT JOEL A. STOKES, JOEL A. STOKES AND SANDRA STOKES, AS TRUSTEES OF THE JIMIACK IRREVOCABLE TRUST, AND JIMIACK IRREVOCABLE TRUST'S JOINDER TO DEFENDANT, RED ROCK FINANCIAL SERVICES , MOTION TO DISMISS FIRST AMENDED COMPLAINT AND FOR ATTORNEY'S FEES AND COSTS PURSUANT TO E.D.C.R. RULE 7.60(B)(1) AND/OR (3) BRIAN AND DEBORA CHIESI AND QUICKEN LOAN INC.'S JOINDER TO DEFENDANT RED ROCK FINANCIAL SERVICE'S MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT Counsel appearing remotely via Bluejeans. Argument by counsel. COURT ORDERED, Defendant Red Rock Financial Services, LLC's Motion to Dismiss Complaint, GRANTED adding that the Court would take the request for attorney fees under advisement. Mr. Wight to prepare the order.;

10/29/2020  **Motion for Attorney Fees and Costs** (9:00 AM) (Judicial Officer: Johnson, Susan)

Defendant's Motion for Attorney's Fees and Costs
Motion Granted;
Journal Entry Details:
Arguments by Ms. Wood and Mr. Thompson regarding whether or not the 31.6 billed hours were reasonable and necessary. COURT ORDERED, matter taken UNDER ADVISEMENT; advised it wanted to review the attorneys fees in lieu of the Brunzell factors; matter SET for hearing. 11/03/2020 - 8:30 AM - DEFENDANTS, JOEL A. STOKES AND SANDRA STOKES, AS TRUSTEES OF THE JIMIACK IRREVOCABLE TRUST AND JIMIACK IRREVOCABLE TRUST'S MOTION TO ENFORCE ORDER FOR ATTORNEY'S FEES AND COSTS AND FOR CONTEMPT AND FOR ATTORNEY'S FEES AND COSTS PURSUANT TO EDCR RULE 7.60 (B)(3) AND/OR (5) AND ORDER SHORTENING TIME;

11/03/2020  **Motion to Enforce** (8:30 AM) (Judicial Officer: Johnson, Susan)

Defendants, Joel A. Stokes and Sandra Stokes, as Trustees of the Jimijack Irrevocable Trust and Jimijack Irrevocable Trust's Motion to Enforce Order for Attorney's Fees and Costs and for Contempt and for Attorney's Fees and Costs Pursuant to EDCR Rule 7.60(b)(3) and/or (5) and Order Shortening Time
Denied Without Prejudice;
Journal Entry Details:
Court noted the best remedy would be for Mr. Hong to submit a proposed judgment and ORDERED, Motion DENIED WITHOUT PREJUDICE. Mr. Thomson advised there were several issues with this Motion and they should be awarded attorneys fees. Arguments by Mr.

CASE SUMMARY

CASE NO. A-19-799890-C

Thomson in support of attorneys fees. Court noted Mr. Thomson didn't have a pending motion for attorneys fees and advised he should file one if he felt it was appropriate.;

DATE	FINANCIAL INFORMATION
	<p>Defendant Chiesti, Brian</p> <p>Total Charges 283.00</p> <p>Total Payments and Credits 283.00</p> <p>Balance Due as of 12/30/2020 0.00</p>
	<p>Defendant Nationstar Mortgage LLC</p> <p>Total Charges 223.00</p> <p>Total Payments and Credits 223.00</p> <p>Balance Due as of 12/30/2020 0.00</p>
	<p>Defendant Red Rock Financial Services</p> <p>Total Charges 223.00</p> <p>Total Payments and Credits 223.00</p> <p>Balance Due as of 12/30/2020 0.00</p>
	<p>Defendant Stokes, Joel A</p> <p>Total Charges 283.00</p> <p>Total Payments and Credits 0.00</p> <p>Balance Due as of 12/30/2020 283.00</p>
	<p>Plaintiff Tobin, Nona</p> <p>Total Charges 342.00</p> <p>Total Payments and Credits 342.00</p> <p>Balance Due as of 12/30/2020 0.00</p>
	<p>Plaintiff Tobin, Nona</p> <p>Appeal Bond Balance as of 12/30/2020 1,000.00</p>

OGM
~~EDWO~~

1 David R. Koch, Esq. (NV Bar No. 8830)
2 Steven B. Scow, Esq. (NV Bar No. 9906)
3 Brody B. Wight, Esq. (NV Bar No. 13615)
4 KOCH & SCOW, LLC
5 11500 South Eastern Avenue, Suite 210
6 Henderson, NV 89052
7 Telephone: (702) 318-5040
8 Facsimile: (702) 318-5039
9 dkoch@kochscow.com
10 sscow@kochscow.com
11 bwight@kochscow.com

12 *Attorneys for Defendant*
13 *Red Rock Financial Services*

14 DISTRICT COURT
15 CLARK COUNTY, NEVADA

16 NONA TOBIN, an individual,
17
18 Plaintiff,

19 vs.

20 BRIAN CHIESTI, an individual; DEBORA
21 CHIESTI, an individual; QUICKEN
22 LOANS IN.; JOEL A. STOKES, an
23 individual; JOEL A . STOKES AND
24 SANDRA STOKES as Trustees of
25 JIMI JACK IRREVOCABLE TRUST;
26 JIMI JACK IRREVOCABLE TRUST;
27 NATIONSTAR MORTGAGE LLC; RED
28 ROCK FINANCIAL SERVICES, DOES I
through X inclusive; and ROE
CORPORATIONS I through V, inclusive

Defendants.

Case No. A-19-799890-C
Dept. 22

**ORDER GRANTING DEFENDANT
RED ROCK FINANCIAL SERVICES'
MOTION TO DISMISS COMPLAINT
AND ALL JOINDERS TO THE
MOTION**

On August 11, 2020 Defendant Red Rock Financial, LLC's ("Red Rock") Motion to Dismiss Nona Tobin's Claims against it and as well as Nationstar Mortgage, LLC's ("Nationstar") Joinder to Red Rock's motion; Joel a Stokes, Joel A. Stokes and Sandra Stokes as trustees of Jimijack Irrevocable Trust, and Jimijack Irrevocable Trust (the "Jimijack Defendants") Joinder to Red Rock's motion; and Brian Chiesi, Debora Chiesi,

1 and Quicken Loans, Inc.'s (the "Chiesi Defendants") Joinder to Red Rock's motion came
2 on for hearing in this Court (collectively all above Defendants shall be referred to as the
3 "Defendants"). Appearing on behalf of Red Rock was counsel of record, Brody Wight
4 appearing on behalf of Nationstar was counsel of record Donna Wittig, appearing on
5 behalf of the Jimijack Defendants was counsel of record Joseph Hong, appearing on
6 behalf of the Chiesi Defendants was counsel of record Brittany Wood, and appearing on
7 behalf of Tobin was counsel of record John Thomson. The Court, having considered the
8 motion, all of the joinders to the motion, the opposition filed by Tobin, the reply filed by
9 Red Rock, and all joinders to the reply, having heard and considered any argument of
10 counsel at the time of hearing, finds and orders as follows.

11 **FACTS**

12 **A. Tobin Unsuccessfully Brings Claims Against the HOA**

13 1. On January 31, 2017, Tobin, in her capacity as the trustee of the Gordon B.
14 Hansen Trust (the "Trust"), filed a Cross-claim against the Sun City Anthem Community
15 Association (the "HOA") in District Court Case No. A-15-720032-C (the "Previous Case"
16 or "Previous Action") claiming the HOA, through its collection agent Red Rock,
17 wrongfully foreclosed on a residence owned by the Trust and located at 2763 White Sage
18 Drive, Henderson, Nevada 89052 (the "Property") on August 15, 2014.

19 2. In that same litigation, Tobin brought claims against the Jimijack
20 Defendants as successors in interest to the party that purchased the Property at the
21 foreclosure.

22 3. Tobin's central allegation in the Previous Case was that Red Rock
23 committed fraud and wrongfully colluded with several parties, including the HOA, in
24 foreclosing on the Property without complying with the requirements of NRS Chapter
25 116 or the HOA's governing documents.

26 4. Tobin's Cross-claim in the Previous Case listed a host of allegations of
27 wrongdoing against Red Rock including claims that Red Rock failed to provide the Trust
28

1 with proper notice of the foreclosure sale and that it frequently misstated the amounts
2 due and owing to the HOA under the HOA lien.

3 5. The Cross-claim in the Previous Case contained a cause of action against
4 the HOA for quiet title and equitable relief claiming that Red Rock's actions caused the
5 foreclosure sale to be null and void as well as causes of action for civil conspiracy, fraud,
6 unjust enrichment, and breach of contract. The allegations of each of those claims
7 centered around Red Rock.

8 6. The Cross-claim in the Previous Case alleged that it was Red Rock that
9 conspired, Red Rock that committed fraud, Red Rock that was unjustly enriched, and
10 Red Rock that breached the contract, but the Cross-claim did not list Red Rock as a party.

11 7. On February 5, 2019, the HOA brought a motion for summary judgment
12 seeking the dismissal of the Trust's Cross-claim. The HOA argued that Red Rock clearly
13 complied with all requirements of law in foreclosing on the Property and carefully
14 presented the court with all of the notices Red Rock provided.

15 8. The Trust filed an opposition attempting to defend its allegations with a
16 declaration from Tobin attached that claimed the Trust owned the Property.

17 9. On April 17, 2019, the court in that case signed an order granting the
18 HOA's motion in its entirety reasoning that "[t]he totality of the facts evidence that the
19 HOA properly followed the processes and procedures in foreclosing upon the Property."

20 10. Tobin, as the trustee to the Trust, also brought identical claims against the
21 Jimijack Defendants, as successors in interest to the party that purchased the Property at
22 the foreclosure, in the Previous Case. After a full trial on the merits, the Court entered a
23 judgment on June 24, 2019, finding in favor of the Jimijack Defendants and against the
24 Trust on all of the Trust's claims in part due to the fact that the claims were precluded by
25 the order granting summary judgment.

1 claims. The Jimijack Defendants' Motion for Attorney's Fees and Costs were pursuant to
2 EDCR Rule 7.60(b)(1) and / or (3).

3 **STANDARD FOR DISMISSAL UNDER NRCP 12(B)(5)**

4 19. Pursuant to NRCP 12(b)(5), a motion to dismiss should be granted upon
5 "failure to state a claim upon which relief can be granted." A motion brought under
6 NRCP 12(b)(5) tests the legal sufficiency of the claim as alleged by the moving party. A
7 motion to dismiss must be granted where it appears to a certainty that the plaintiff is
8 entitled to no relief under any set of facts that could be proved in support of a claim. *Buzz*
9 *Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 (2008); *Blackjack Bonding v. Las Vegas*
10 *Mun. Ct.*, 116 Nev. 1213,1217 (2000); *Simpson v. Mars Inc.*, 113 Nev. 188, 190 (1997).

11 20. In reviewing motions to dismiss, courts may consider the allegations of the
12 Complaint and "may also consider unattached [or attached] evidence on which the
13 complaint necessarily relies if: (1) the complaint refers to the document; (2) the document
14 is central to the plaintiff's claim; and (3) no party questions the authenticity of the
15 document." *Baxter v. Dignity Health*, 357 P.3d 927, 930 (Nev. 2015) (quoting *United States*
16 *v. Corinthian Colleges*, 655 F.3d 984, 999 (9th Cir.2011)).

17 **LEGAL FINDINGS**

18 21. The doctrine of claim preclusion, otherwise known as *res judicata* is
19 designed to prevent plaintiffs and their privies from filing any claims that were or could
20 have been asserted in a different suit. *U. of Nevada v. Tarkanian*, 879 P.2d 1180, 1191–92
21 (Nev. 1994).

22 22. The concept of *nonmutual* claim preclusion extends the doctrine and
23 "embraces the idea that a plaintiff's second suit against a new party should be precluded
24 'if the new party can show good reasons why he should have been joined in the first
25 action and the [plaintiff] cannot show any good reasons to justify a second chance.' "
26 *Weddell v. Sharp*, 350 P.3d 80, 84–85 (Nev. 2015) (quoting 18A Charles Alan Wright, et al.,
27 Federal Practice and Procedure § 4464.1 (2d ed.2002)

1 the time of the previous action, and Tobin has not provided any good reason for not
2 having brought Red Rock in the previous action.

3 28. Because this case meets all of the elements of claim preclusion and
4 nonmutual claim preclusion, those doctrines now bar Tobin from bringing all of her
5 claims against the Defendants.

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EXHIBIT 1

EXHIBIT 1

From: joseph hong yosuphonglaw@gmail.com
Subject: Re: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 30, 2020 at 12:57 PM
To: Brody Wight bwight@kochscow.com



Hi Brody...please affix my e-signature on the Order...

On Thu, Nov 19, 2020 at 10:42 AM Brody Wight <bwight@kochscow.com> wrote:

I am attaching the order granting Red Rock's motion to dismiss and all joinders that has the changes requested by the Court. If you approve of this order, please respond to this email authorizing me to attach your e-signature.

John, I am aware that you do not approve of the order and will attach the letter you sent regarding the order as an exhibit to the order per the Court's request.

Brody Wight
Koch & Scow LLC
11500 S. Eastern Ave., Suite 210
Henderson, Nevada 89052
702-318-5040 (office)
702-318-5039 (fax)
801-645-8978 (cell)
bwight@kochscow.com

--

Joseph Y. Hong, Esq
Hong & Hong Law Office
One Summerlin
1980 Festival Plaza Dr., Suite 650
Las Vegas, Nevada 89135
Tel: (702) 870-1777
Fax: (702) 870-0500
Cell: (702) 409-6544
Email: Yosuphonglaw@gmail.com

From: Brittany Wood bwood@mauricewood.com 
Subject: RE: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 2:00 PM
To: Brody Wight bwight@kochscow.com, donna.wittig@akerman.com, joseph hong yosuphonglaw@gmail.com, melanie.morgan@akerman.com, scott.lachman@akerman.com, J Thomson jwtlaw@ymail.com

BW

You have my authority to attach my electronic signature.

Brittany Wood

Partner



9525 Hillwood Drive | Suite 140
Las Vegas, Nevada | 89134
Office: (702) 463-7616 | Fax: (702) 463-6224
bwood@mauricewood.com

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From: Brody Wight <bwight@kochscow.com>
Sent: Thursday, November 19, 2020 10:42 AM
To: donna.wittig@akerman.com; joseph hong <yosuphonglaw@gmail.com>; melanie.morgan@akerman.com; scott.lachman@akerman.com; Brittany Wood <bwood@mauricewood.com>; J Thomson <jwtlaw@ymail.com>
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C

I am attaching the order granting Red Rock's motion to dismiss and all joinders that has the changes requested by the Court. If you approve of this order, please respond to this email authorizing me to attach your e-signature.

John, I am aware that you do not approve of the order and will attach the letter you sent regarding the order as an exhibit to the order per the Court's request.

Brody Wight
Koch & Scow LLC
11500 S. Eastern Ave., Suite 210
Henderson, Nevada 89052
702-318-5040 (office)
702-318-5039 (fax)
801-645-8978 (cell)
bwight@kochscow.com

AA4589

From: Scott.lachman@akerman.com 
Subject: RE: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 11:04 AM

To: bwight@kochscow.com, donna.wittig@akerman.com, yosuphonglaw@gmail.com, melanie.morgan@akerman.com, bwood@mauricewood.com, jwtlaw@ymail.com
Cc: elizabeth.streible@akerman.com



Brody – You have permission to use my e-signature for Nationstar. Bar No. 12016. Thanks for preparing the order.

Scott Lachman

Associate, Consumer Financial Services Practice Group
Akerman LLP | 1635 Village Center Circle, Suite 200 | Las Vegas, NV 89134
D: 702 634 5021 | C: 702 321 7282
Scott.Lachman@akerman.com

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From: Brody Wight <bwight@kochscow.com>
Sent: Thursday, November 19, 2020 10:42 AM
To: Wittig, Donna (Assoc-Las) <donna.wittig@akerman.com>; joseph hong <yosuphonglaw@gmail.com>; Morgan, Melanie (Ptnr-Las) <melanie.morgan@akerman.com>; Lachman, Scott (Assoc-Las) <scott.lachman@akerman.com>; Brittany Wood <bwood@mauricewood.com>; J Thomson <jwtlaw@ymail.com>
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C

I am attaching the order granting Red Rock's motion to dismiss and all joinders that has the changes requested by the Court. If you approve of this order, please respond to this email authorizing me to attach your e-signature.

John, I am aware that you do not approve of the order and will attach the letter you sent regarding the order as an exhibit to the order per the Court's request.



Order Granting
Defend...n.docx

From: Brody Wight bwight@kochscow.com 
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 10:42 AM

BW

To: donna.wittig@akerman.com, joseph.hong@yosuphonglaw@gmail.com, melanie.morgan@akerman.com, scott.lachman@akerman.com, **Brittany Wood** bwood@mauricewood.com, **J Thomson** jwtlaw@ymail.com

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John, I am aware that you do not approve of the order and will attach the letter you sent regarding the order as an exhibit to the order per the Court's request.



Order Granting
Defend...n.docx

Brody Wight
Koch & Scow LLC
11500 S. Eastern Ave., Suite 210
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702-318-5040 (office)
702-318-5039 (fax)
801-645-8978 (cell)
bwight@kochscow.com

AA4592

EXHIBIT 2

EXHIBIT 2

LAW OFFICE OF JOHN W. THOMSON
2450 ST. ROSE PARKWAY, SUITE 120
HENDERSON, NV 89074
OFFICE: 702-478-8282
FAX: 702-541-9500
EMAIL: johnwthomson@ymail.com/jwtlaw@ymail.com

October 27, 2020

Via Email Only:

David Koch – dkoch@kochscow.com
Brody Wight – bwight@kochscow.com
Daniel Scow – dscow@kochscow.com
Steven Scow – sscow@kochscow.com
Donna Wittig – donna.wittig@akerman.com
Melanie Morgan – Melanie.morgan@akerman.com
Joseph Hong – yosuphonglaw@gmail.com
Brittany Wood – bwood@mauricewood.com

Re: Tobin v. Chiesi, et al
Case No.: A-19-799890-C

Dear Counsel:

Please see below Nona Tobin’s comments and objections to the Order:

1. On January 31, 2017, Tobin, in her capacity as the trustee of the Gordon B. Hansen Trust (the “Trust”), filed a Cross-claim against the Sun City Anthem Community Association (the “HOA”) in District Court Case No. A-15-720032-C (the “Previous Case” or “Previous Action”) claiming the HOA, through its collection agent Red Rock, wrongfully foreclosed on a residence owned by the Trust and located at 2763 White Sage Drive, Henderson, Nevada 89052 (the “Property”) on August 15, 2014.

Claims were brought in both capacities as Trustee and an Individual. The proposed pleadings attached to the 11/15/16 Motion to Intervene, the 12/20/16 hearing minutes & Recorder’s Transcript Tobin as filing as an individual beneficiary & Gordon B. Hansen Trust, trustee. Her acceptance as an individual party was reaffirmed at a hearing on 4/27/17 See Recorder’s Transcript Page.

2. In that same litigation, Tobin brought claims against the Jimijack Defendants as successors in interest to the party that purchased the Property at the foreclosure.

Tobin/Gordon B. Hansen Trust's primary claim was never adjudicated at trial, i.e., that Jimijack had no valid interest as its deed was inadmissible per NRS 111.345 & was not the successor in interest to the party that purchased the property at foreclosure. Jimijack evaded judicial scrutiny of Jimijack's defective deed by transferring Jimijack's deed to non-party Joel Stokes as an individual five weeks before the trial that allegedly adjudicated the Gordon B. Hansen Trust's quiet title claim v Jimijack.

3. Tobin's central allegation in the Previous Case was that Red Rock committed fraud and wrongfully colluded with several parties, including the HOA, in foreclosing on the Property without complying with the requirements of NRS Chapter 116 or the HOA's governing documents. (*Id.* at ¶ 17).

The documents and record speak for themselves, and the summary here is not adequate.

4. Tobin's Cross-claim in the Previous Case listed a host of allegations of wrongdoing against including claims that Red Rock failed to provide the Trust with proper notice of the foreclosure sale and that it frequently misstated the amounts due and owing to the HOA under the HOA lien.

Tobin/Gordon B. Hansen Trust filed six causes of actions vs. Sun City Anthem. Sun City Anthem's Motion for Summary Judgment addressed quiet title only. Court rejected the Ombudsman's notice of sale log because it was not authenticated. It was authenticated on 4/15/19, but the court did not consider it.

5. The Cross-claim in the Previous Case contained a cause of action against the HOA for quiet title and equitable relief claiming that Red Rock's actions caused the foreclosure sale to be null and void as well as causes of action for civil conspiracy, fraud, unjust enrichment, and breach of contract. The allegations of each of those claims centered around Red Rock.

The degree to which Red Rock & FSR misled the HOA Board, usurped control of funds belonging to the HOA and other parties was revealed during discovery of the prior proceedings but there was no judicial scrutiny of the evidence because Sun City Anthem's attorneys misrepresented the Red Rock foreclosure file as Sun City Anthem's official records and concealed the HOA's verified, corroborated agendas, minutes, and ownership accounts.

These claims were not heard. Five of the six causes of actions were dismissed to go to mediation, but were not returned. Sun City Anthem Motion for Summary Judgment was a partial Motion for Summary Judgment.

There are things about Red Rock's fraud that were only discovered during discovery in the first proceedings. Tobin was prevented from addressing them at trial because she was removed as a Party in her individual capacity; documentary evidence was all excluded from trial, Page 18 of 1/31/17 cross-claim, failure to distribute proceeds, and many other findings of fact were misrepresented in the 4/17/19 Sun City Anthem Motion for Summary Judgment.

6. The Cross-claim in the Previous Case alleged that it was Red Rock that conspired, Red Rock that committed fraud, Red Rock that was unjustly enriched, and Red Rock that breached the contract, but the Cross-claim did not list Red Rock as a party.

None of these claims were heard. See # 13

Red Rock was not a party in the prior suit. Tobin tried to add them in her attempted amendment of her 1/31/17 Cross-Claim vs Sun City Anthem that it could not have any added parties or claims, but the Court wouldn't allow it. See 1/10/19 Recorder's Transcript.

7. On February 5, 2019, the HOA brought a motion for summary judgment seeking the dismissal of the Trust's Cross-claim. The HOA argued that Red Rock clearly complied with all requirements of law in foreclosing on the Property and carefully presented the court with all of the notices Red Rock provided.

Disagree. It was a partial Motion for Summary Judgment vs. the Gordon B. Hansen Trust on the quiet title claim. It did not address five of the six causes of actions in the 1/31/17 CRCM that all parties agreed on 3/26/19 hearing (See Recorder's Transcript) was the operative pleading.

Misstates what happened. While it is true that the HOA argues these points, it did so without any verified, corroborated supporting evidence and by unverified, uncorroborated Red Rock foreclosure file as if it was the HOA's official record.

Sun City Anthem's assisted Red Rock's alleged fraud by presenting inaccurate notices that were never sent, as if they were real, and concealed from discovery the actual official HOA records that support Tobin's and Leidy's declarations made under penalty of perjury.

8. The Trust filed an opposition attempting to defend its allegations with a declaration from Tobin attached that claimed the Trust owned the Property.

Tobin's 3/6/19 declaration under penalty of perjury was consistent with the many other declarations she made under penalty of perjury (9/23/16, 1/17/17, 3/14/19, 3/22/19, 4/20/19).

This implies there was some conflict in her statement about who owned it at the time of the sale and how she acquired title as an individual, but alternate theories of recovery are allowed.

Further, this 3/6/19 declaration was not considered by the court at the 3/26/19 hearing because the court had granted the HOA's Motion for Summary Judgment and Nationstar Mortgage's sua sponte on 3/5/19.

9. On April 17, 2019, the court in that case signed an order granting the HOA's motion in its entirety reasoning that "[t]he totality of the facts evidence that the HO properly followed the processes and procedures in foreclosing upon the Property." (Exhibit 4, pg. 9).

While it is true that is what the order says, there are many disputed facts in that order. See Tobin 4/20/19 DECL that was exhibit 1 to the 5/23/19 Reply to SCA's opposition to reconsider.

All evidence, meaning all sworn affidavits, declarations under penalty of perjury by Teralyn Lewis -Nevada Real Estate Division Custodian of Records; Craig Leidy- 2014 listing agent; Doug Proudfit- 2012-2013 Listing agent; Linda Proudfit – Proudfit Realty Custodian of Records; Steve Hansen – co-beneficiary to the Gordon B. Hansen Trust until 3/27/17; and Nona Tobin as well as all verified & corroborated documentary evidence support Nona Tobin's claims.

The court erred in relying solely on the HOA's oral arguments and Red Rock's unverified, uncorroborated file; ignoring all of the verified evidence that contradicts that statement.

10. Tobin, as the trustee to the Trust also brought identical claims against the Jimijack Defendant, as successors in interest to the party that purchased the Property at the foreclosure, in the Previous Case. After a full trial on the merits, the Court entered a judgment on June 24, 2019 finding in favor of the Jimijack Defendants and against the Trust on all of the Trust's claims in part due to the fact that the claims were precluded by the order granting summary judgment.

The 5 causes of actions of Tobin/Gordon B. Hansen Trust's 2/1/17 AACC vs Joel & Sandra as Trustees of Jimijack were not identical to the claims against the HOA and no claims against Jimijack were heard at trial. There was no "full trial on the merits". Joel A. Stokes, a party in this case, who held Jimijack's recorded interest as of 5/1/19, was not a party in either of the

consolidated cases. The court was not aware at trial that non-party Joel Stokes had encumbered the property with a \$355,000 deed of trust from non-party Civic Financial Services. The Stokes-Civil Financial Services Deed of Trust was wrongly identified as the Jimijack-Nationstar Mortgage “settlement” even though neither NSM nor Jimijack was party to Stokes-Civil Financial Services Deed of Trust.

Further, Plaintiff Jimijack that did not have an admissible deed filed, no quiet title (or any other) claims, into the consolidated cases except its original 6/16/15 COMP vs BANA. BANA defaulted & JDDF was filed on 10/16/15 so BANA was not a party.

Claims preclusion should not have been applied by the court. The Sun City Anthem’s Motion for Summary Judgment was a partial Motion for Summary Judgment as it specifically limited its scope to the quiet title causes of action of the Gordon B. Hansen Trust. The Motion for Summary Judgment was specifically not addressing five of the six Gordon B. Hansen Trust causes of actions or six of Tobin’s causes of actions against Sun City Anthem. Motion for Summary did not apply to Tobin/Gordon B. Hansen Trust’s five causes of actions against Jimijack or the four causes of actions against Hong’s other client Yuen K. Lee dba F. Bondurant as Hong did not file a joinder to Sun City Anthem’s Motion for Summary Judgment and his oral motion to join at the 3/26/19 hearing was denied. (Page 20, lines 16-17 Recorder’s Transcript)

11. Nationstar, as the servicing bank for the Deed of Trust on the Property at the time of foreclosure, was also party to the Previous Case, but Tobin did not bring claims against Nationstar directly.

Nationstar Mortgage was party in the previous case because it inaccurately claimed to hold the beneficial interest of the Hansen Deed of Trust.

Tobin filed an affidavit on 9/23/16 that stated on Page 5 “23. In our scenario, Nationstar Mortgage would retain whatever security interest they had (and could legitimately prove they had in the first deed of trust on August 14, 2014 and no more.

24. Our prayer to the court would be 1) void the sale, 2) give back the title to us as the equitable titleholders prior to the fraudulent HOA sale, and 3) not allow NSM's claims to a security interest prevail by bypassing the requirements of Nevada's 2011 anti-foreclosure fraud law.” (AB 284 2011)

25. I believe Nationstar Mortgage's claims are clearly contradicted by evidence I possess.”

12. Shortly after all of her claims were denied at trial, Tobin filed a whole new complaint on August 8, 2019, but this time she filed the Complaint in her individual

capacity. Tobin then filed a First Amended Complaint on June 3, 2020 (the “Complaint”)

Filing the new claim was necessary to protect my individual rights arising from my 3/28/17 deed. The parties would have asserted they were time-barred if I had not filed an individual claim prior to the 8/14/19 statute of limitations.ⁱ

13. Tobin’s new Complaint alleges that in March 2017, in the middle of the previous litigation and before the Trust filed its motion for summary judgment against the HOA, the Trust transferred title to the Property to Tobin individually.

“...before the trust filed its Motion for Summary Judgment vs. the HOA” misstates the facts & the court record.

1/31/17 Tobin Cross-Claim vs Sun City Anthem

2/23/17 Sun City Anthem Motion to Dismiss Tobin/Gordon B. Hansen Trust per NRS 38.310

3/3/17 Tobin filed a Pro Se Motion for Summary Judgment to void the sale vs. the HOA on behalf of herself & Gordon B. Hansen Trust

3/14/17 Sun City Anthem changed attorneys from Lech to Lipson

3/22/17 Tobin gave Sun City Anthem a settlement offer to avoid litigation

3/22/17 Sun City Anthem filed Motion to Dismiss vs Tobin & Gordon B. Hansen Trust per NRCP 41 because Tobin was a Pro Se

3/31/17 Sun City Anthem filed an Opposition to Motion to Tobin Motion for Summary Judgment

4/27/17 Court denied Sun City Anthem Motion to Dismiss per 41 “as to the individual” but erred in not hearing the Tobin/Gordon B. Hansen Trust Motion for Summary Judgment which was scheduled to be heard 4/27/17

5/25/17 Sun City Anthem & Tobin/Gordon B. Hansen Trust new attorney stipulated to withdraw all claims & Tobin’s MSJ pending completion of mediation. Sun City Anthem’s 3/31/17 opposition was withdrawn erroneously as Sun City Anthem new attorney Ochoa misrepresented Sun City Anthem’s opposition as a 2nd Tobin/Gordon B. Hansen Trust Motion for Summary Judgment. Tobin/Gordon B. Hansen Trust completed mediation on 11/13/18, but her claims were not restored to the jurisdiction of the court as her 4/9/19, 4/12/19, 7/26/19 notices of completion of mediation and her 7/29/19 motion to dismiss per 38.310 were all stricken from the record unheard. This resulted in the court refusing to hear her 3/3/17 Motion for Summary Judgment vs. Sun City Anthem, her 4/10/19 Motion for Summary Judgment vs. Jimijack and her 4/24/19 motion to vacate the Sun City Anthem partial Motion for Summary Judgment of the Gordon B. Hansen Trust’s quiet title claims & Nationstar Mortgage’s limited joinder thereto pursuant to NRCP 60 fraud on court.

14. Other than asserting claims in her individual capacity, Tobin’s current action is based, once again, on allegations that Red Rock did not comply with the requirements of law in foreclosing on the Property in August 2014.

Tobin filed the claims that the HOA's agent did not comply with legal requirements in an individual capacity in the prior case, but the court did not hear her as an individual previously, and so the court was unaware of the specific evidence of Red Rock's falsification of its unverified, uncorroborated foreclosure file, keeping two sets of books, taking the authority of the HOA Board to retain proprietary control over funds collected for the benefit of the HOA, conspiring with Nationstar Mortgage to mischaracterize Nationstar Mortgage's rejected \$1100 tender to close the 5/8/14 \$367,500 auction.com sale, authenticated Ombudsman's log shows there was no notice of sale in effect when the 8/15/14 sale was held that was uncovered during the prior proceedings, so she reasserts those claims in the current case. The claim that Red Rock wrongly retained the proceeds of the sale was on page 18-19 of the 1/31/17 Cross-Claim vs. Sun City Anthem, but was never heard because Tobin was prohibited from adding back in the 5 of 6 causes of actions that were withdrawn pending completion of mediation. Tobin's individual motions and notices were all stricken from the record unheard.

15. The Complaint specifically brings claims against all of the Defendants for quiet title, unjust enrichment, and declaratory relief based entirely on allegations that Red Rock wrongfully foreclosed on the Property.

Disagree. The complaint speaks for itself and the summary is inadequately simple and incorrect. The claim against Nationstar Mortgage is that it never was the beneficial owner of the Hansen deed of trust, and is judicially estopped from claiming to own it now. However, because Nationstar Mortgage misrepresented to the court that Tobin's choosing to move to void the sale subject to the Hansen Deed of Trust meant that Tobin/Gordon B. Hansen Trust and Nationstar Mortgage were not opposing parties. Nationstar Mortgage therefore "settled out of court" and dropped its quiet title claims without meeting its burden of proof. Further, if the sale was valid to extinguish the Gordon B. Hansen Trust's interest, then it was valid to extinguish the Hansen Deed of Trust. Also, Nationstar Mortgage & Red Rock both concealed that the Nationstar Mortgage offer of \$1100 and the 3/28/14 Red Rock Financial Services pay off demand to Chicago title the complaint against Jimijack was that the deed was fraudulent and inadmissible per NRS 111.345. All other defendant's deeds that stemmed from Jimijack's are void as well. These are new claims never heard.

16. The Complaint brings the above claims against the Jimijack Defendants and Chiesi Defendants presumably because those Defendants obtained interests in the Property after foreclosure. The Complaint alleges that Nationstar was the servicer on the Deed of Trust on the Property at the time of foreclosure, but the Complaint does not specify why Nationstar was named as a defendant in the current action.

Nationstar Mortgage did not admit that it was only the servicer and not the beneficiary until after the end of discovery, and then they immediately contradicted it by recording a claim that contradicted its previous claim of being the beneficiary. Nationstar Mortgage recorded false claims related to the disputed Hansen DOT on 12/1/14, two on 3/8/19, 1/22/15, 8/17/15, and 6/3/19. In settlement with the other parties, the Jimijack-Nationstar Mortgage settlement, they decided to recording documents on 5/1/19 and 5/23/19 which clouded the title with reassignments of the Stokes-CFS DOT on 6/4/19 and 7/17/19. Chiesi/Quicken defendants recorded claims adverse to Tobin's claimed interest on 12/27/19 during the pendency of these proceedings and the appeal of the prior case. NSM reconveyed the Hansen deed of trust to Joel Stokes as an individual instead of to the estate of the borrower; while the Stokes-Civil Financial Services Deed of Trust still encumbered the property.

17. On June 23, 2020, Red Rock filed a motion to dismiss arguing, in part, that all of Tobin's claims are barred by the doctrines of claim preclusion and nonmutual claim preclusion. The remaining Defendants all properly joined Red Rock's motion.

Claims preclusion is not supported by the facts. Tobin's individual claims in the prior case were not heard. Nationstar Mortgage's claims were not heard because they were dismissed without Tobin's consent, allegedly in order to evade judicial scrutiny of any evidence, and creating a side deal with Jimijack to thwart Tobin's ownership interest. Jimijack didn't have any claims to adjudicate, but somehow won without any claims or any evidence.

Different parties, different claims, no fair adjudication previously equals no applicability of claims preclusion doctrine.

18. In their joinders, the Chiesi Defendants and the Jimijack Defendants requested this Court grant them attorney's fees and costs for defending against Tobin's claims. The Jimijack Defendant's Motion for Attorney's Fees and Costs were pursuant to EDCR Rule 7.60(b)(1) and/or (3).

The attorney fees and costs are separate matters and should not be included in the Order granting motion to dismiss.

Sincerely,

/s/ John W. Thomson

John W. Thomson. Esq.

JWT/ac

cc: Nona Tobin

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Nona Tobin, Plaintiff(s)

CASE NO: A-19-799890-C

7 vs.

DEPT. NO. Department 22

8 Joel Stokes, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/3/2020

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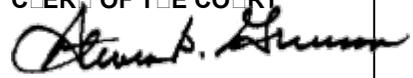
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12 *Attorneys for Defendant*
13 *Red Rock Financial Services*

14 DISTRICT COURT
15 CLARK COUNTY, NEVADA

16 NONA TOBIN, an individual,

17 Plaintiff,

18 vs.

19 BRIAN CHIESTI, an individual; DEBORA
20 CHIESTI, an individual; QUICKEN
21 LOANS IN.; JOEL A. STOKES, an
22 individual; JOEL A . STOKES AND
23 SANDRA STOKES as Trustees of
24 JIMI JACK IRREVOCABLE TRUST;
25 JIMI JACK IRREVOCABLE TRUST;
26 NATIONAL MORTGAGE LLC; RED
27 ROCK FINANCIAL SERVICES; DOES I
28 through X inclusive; and ROE
CORPORATIONS I through V, inclusive

Defendants.

Case No. A-19-799890-C
Dept. 22

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that the *Order Granting Defendant Red Rock Financial Services' Motion to Dismiss Complaint and All Joinders to the Motion* was entered in the above-referenced matter on December 3, 2020, a copy of which is attached hereto.

DATED: December 3, 2020.

KOCH & SCOW, LLC

/s/ Steven B. Scow
Steven B. Scow, Esq.
Attorney for Red Rock Financial Services, LLC

AA4604

CERTIFICATE OF SERVICE

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I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. I certify that on December 3, 2020, I caused the foregoing document entitled: **NOTICE OF ENTRY OF ORDER**, to be electronically filed and served with the Eighth Judicial District Court, County of Clark, State of Nevada EFile system.

Executed on December 3, 2020 at Henderson, Nevada.

/s/ Andrea W. Eshenbaugh
An Employee of Koch & Scow LLC

OGM
~~EDWO~~

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13 *Red Rock Financial Services*

14 DISTRICT COURT

15 CLARK COUNTY, NEVADA

16 NONA TOBIN, an individual,

Case No. A-19-799890-C
Dept. 22

17 Plaintiff,

18 vs.

**ORDER GRANTING DEFENDANT
RED ROCK FINANCIAL SERVICES'
MOTION TO DISMISS COMPLAINT
AND ALL JOINDERS TO THE
MOTION**

19 BRIAN CHIESTI, an individual; DEBORA
20 CHIESTI, an individual; QUICKEN
21 LOANS IN.; JOEL A. STOKES, an
22 individual; JOEL A . STOKES AND
23 SANDRA STOKES as Trustees of
24 JIMI JACK IRREVOCABLE TRUST;
25 JIMI JACK IRREVOCABLE TRUST;
26 NATIONSTAR MORTGAGE LLC; RED
27 ROCK FINANCIAL SERVICES, DOES I
28 through X inclusive; and ROE
CORPORATIONS I through V, inclusive

Defendants.

On August 11, 2020 Defendant Red Rock Financial, LLC's ("Red Rock") Motion to Dismiss Nona Tobin's Claims against it and as well as Nationstar Mortgage, LLC's ("Nationstar") Joinder to Red Rock's motion; Joel a Stokes, Joel A. Stokes and Sandra Stokes as trustees of Jimijack Irrevocable Trust, and Jimijack Irrevocable Trust (the "Jimijack Defendants") Joinder to Red Rock's motion; and Brian Chiesi, Debora Chiesi,

1 and Quicken Loans, Inc.'s (the "Chiesi Defendants") Joinder to Red Rock's motion came
2 on for hearing in this Court (collectively all above Defendants shall be referred to as the
3 "Defendants"). Appearing on behalf of Red Rock was counsel of record, Brody Wight
4 appearing on behalf of Nationstar was counsel of record Donna Wittig, appearing on
5 behalf of the Jimijack Defendants was counsel of record Joseph Hong, appearing on
6 behalf of the Chiesi Defendants was counsel of record Brittany Wood, and appearing on
7 behalf of Tobin was counsel of record John Thomson. The Court, having considered the
8 motion, all of the joinders to the motion, the opposition filed by Tobin, the reply filed by
9 Red Rock, and all joinders to the reply, having heard and considered any argument of
10 counsel at the time of hearing, finds and orders as follows.

11 **FACTS**

12 **A. Tobin Unsuccessfully Brings Claims Against the HOA**

13 1. On January 31, 2017, Tobin, in her capacity as the trustee of the Gordon B.
14 Hansen Trust (the "Trust"), filed a Cross-claim against the Sun City Anthem Community
15 Association (the "HOA") in District Court Case No. A-15-720032-C (the "Previous Case"
16 or "Previous Action") claiming the HOA, through its collection agent Red Rock,
17 wrongfully foreclosed on a residence owned by the Trust and located at 2763 White Sage
18 Drive, Henderson, Nevada 89052 (the "Property") on August 15, 2014.

19 2. In that same litigation, Tobin brought claims against the Jimijack
20 Defendants as successors in interest to the party that purchased the Property at the
21 foreclosure.

22 3. Tobin's central allegation in the Previous Case was that Red Rock
23 committed fraud and wrongfully colluded with several parties, including the HOA, in
24 foreclosing on the Property without complying with the requirements of NRS Chapter
25 116 or the HOA's governing documents.

26 4. Tobin's Cross-claim in the Previous Case listed a host of allegations of
27 wrongdoing against Red Rock including claims that Red Rock failed to provide the Trust
28

1 with proper notice of the foreclosure sale and that it frequently misstated the amounts
2 due and owing to the HOA under the HOA lien.

3 5. The Cross-claim in the Previous Case contained a cause of action against
4 the HOA for quiet title and equitable relief claiming that Red Rock's actions caused the
5 foreclosure sale to be null and void as well as causes of action for civil conspiracy, fraud,
6 unjust enrichment, and breach of contract. The allegations of each of those claims
7 centered around Red Rock.

8 6. The Cross-claim in the Previous Case alleged that it was Red Rock that
9 conspired, Red Rock that committed fraud, Red Rock that was unjustly enriched, and
10 Red Rock that breached the contract, but the Cross-claim did not list Red Rock as a party.

11 7. On February 5, 2019, the HOA brought a motion for summary judgment
12 seeking the dismissal of the Trust's Cross-claim. The HOA argued that Red Rock clearly
13 complied with all requirements of law in foreclosing on the Property and carefully
14 presented the court with all of the notices Red Rock provided.

15 8. The Trust filed an opposition attempting to defend its allegations with a
16 declaration from Tobin attached that claimed the Trust owned the Property.

17 9. On April 17, 2019, the court in that case signed an order granting the
18 HOA's motion in its entirety reasoning that "[t]he totality of the facts evidence that the
19 HOA properly followed the processes and procedures in foreclosing upon the Property."

20 10. Tobin, as the trustee to the Trust, also brought identical claims against the
21 Jimijack Defendants, as successors in interest to the party that purchased the Property at
22 the foreclosure, in the Previous Case. After a full trial on the merits, the Court entered a
23 judgment on June 24, 2019, finding in favor of the Jimijack Defendants and against the
24 Trust on all of the Trust's claims in part due to the fact that the claims were precluded by
25 the order granting summary judgment.

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1 claims. The Jimijack Defendants' Motion for Attorney's Fees and Costs were pursuant to
2 EDCR Rule 7.60(b)(1) and / or (3).

3 **STANDARD FOR DISMISSAL UNDER NRCP 12(B)(5)**

4 19. Pursuant to NRCP 12(b)(5), a motion to dismiss should be granted upon
5 "failure to state a claim upon which relief can be granted." A motion brought under
6 NRCP 12(b)(5) tests the legal sufficiency of the claim as alleged by the moving party. A
7 motion to dismiss must be granted where it appears to a certainty that the plaintiff is
8 entitled to no relief under any set of facts that could be proved in support of a claim. *Buzz*
9 *Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 (2008); *Blackjack Bonding v. Las Vegas*
10 *Mun. Ct.*, 116 Nev. 1213,1217 (2000); *Simpson v. Mars Inc.*, 113 Nev. 188, 190 (1997).

11 20. In reviewing motions to dismiss, courts may consider the allegations of the
12 Complaint and "may also consider unattached [or attached] evidence on which the
13 complaint necessarily relies if: (1) the complaint refers to the document; (2) the document
14 is central to the plaintiff's claim; and (3) no party questions the authenticity of the
15 document." *Baxter v. Dignity Health*, 357 P.3d 927, 930 (Nev. 2015) (quoting *United States*
16 *v. Corinthian Colleges*, 655 F.3d 984, 999 (9th Cir.2011)).

17 **LEGAL FINDINGS**

18 21. The doctrine of claim preclusion, otherwise known as *res judicata* is
19 designed to prevent plaintiffs and their privies from filing any claims that were or could
20 have been asserted in a different suit. *U. of Nevada v. Tarkanian*, 879 P.2d 1180, 1191–92
21 (Nev. 1994).

22 22. The concept of *nonmutual* claim preclusion extends the doctrine and
23 "embraces the idea that a plaintiff's second suit against a new party should be precluded
24 'if the new party can show good reasons why he should have been joined in the first
25 action and the [plaintiff] cannot show any good reasons to justify a second chance.' "
26 *Weddell v. Sharp*, 350 P.3d 80, 84–85 (Nev. 2015) (quoting 18A Charles Alan Wright, et al.,
27 Federal Practice and Procedure § 4464.1 (2d ed.2002)

1 the time of the previous action, and Tobin has not provided any good reason for not
2 having brought Red Rock in the previous action.

3 28. Because this case meets all of the elements of claim preclusion and
4 nonmutual claim preclusion, those doctrines now bar Tobin from bringing all of her
5 claims against the Defendants.

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EXHIBIT 1

EXHIBIT 1

From: joseph hong yosuphonglaw@gmail.com
Subject: Re: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 30, 2020 at 12:57 PM
To: Brody Wight bwight@kochscow.com



Hi Brody...please affix my e-signature on the Order...

On Thu, Nov 19, 2020 at 10:42 AM Brody Wight <bwight@kochscow.com> wrote:

I am attaching the order granting Red Rock's motion to dismiss and all joinders that has the changes requested by the Court. If you approve of this order, please respond to this email authorizing me to attach your e-signature.

John, I am aware that you do not approve of the order and will attach the letter you sent regarding the order as an exhibit to the order per the Court's request.

Brody Wight
Koch & Scow LLC
11500 S. Eastern Ave., Suite 210
Henderson, Nevada 89052
702-318-5040 (office)
702-318-5039 (fax)
801-645-8978 (cell)
bwight@kochscow.com

--

Joseph Y. Hong, Esq
Hong & Hong Law Office
One Summerlin
1980 Festival Plaza Dr., Suite 650
Las Vegas, Nevada 89135
Tel: (702) 870-1777
Fax: (702) 870-0500
Cell: (702) 409-6544
Email: Yosuphonglaw@gmail.com

From: Brittany Wood bwood@mauricewood.com 
Subject: RE: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 2:00 PM
To: Brody Wight bwight@kochscow.com, donna.wittig@akerman.com, joseph hong yosuphonglaw@gmail.com, melanie.morgan@akerman.com, scott.lachman@akerman.com, J Thomson jwtlaw@ymail.com

BW

You have my authority to attach my electronic signature.

Brittany Wood

Partner



9525 Hillwood Drive | Suite 140
Las Vegas, Nevada | 89134
Office: (702) 463-7616 | Fax: (702) 463-6224
bwood@mauricewood.com

This communication (including any attachments) is not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer. This transmission is intended only for the use of the addressee and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, any use of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately.

From: Brody Wight <bwight@kochscow.com>
Sent: Thursday, November 19, 2020 10:42 AM
To: donna.wittig@akerman.com; joseph hong <yosuphonglaw@gmail.com>; melanie.morgan@akerman.com; scott.lachman@akerman.com; Brittany Wood <bwood@mauricewood.com>; J Thomson <jwtlaw@ymail.com>
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C

I am attaching the order granting Red Rock's motion to dismiss and all joinders that has the changes requested by the Court. If you approve of this order, please respond to this email authorizing me to attach your e-signature.

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Brody Wight
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702-318-5039 (fax)
801-645-8978 (cell)
bwight@kochscow.com

AA4616

From: Scott.lachman@akerman.com 
Subject: RE: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 11:04 AM

To: bwight@kochscow.com, donna.wittig@akerman.com, yosuphonglaw@gmail.com, melanie.morgan@akerman.com, bwood@mauricewood.com, jwtlaw@ymail.com
Cc: elizabeth.streible@akerman.com



Brody – You have permission to use my e-signature for Nationstar. Bar No. 12016. Thanks for preparing the order.

Scott Lachman

Associate, Consumer Financial Services Practice Group
Akerman LLP | 1635 Village Center Circle, Suite 200 | Las Vegas, NV 89134
D: 702 634 5021 | C: 702 321 7282
Scott.Lachman@akerman.com

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CONFIDENTIALITY NOTE: The information contained in this transmission may be privileged and confidential, and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately reply to the sender that you have received this communication in error and then delete it. Thank you.

From: Brody Wight <bwight@kochscow.com>
Sent: Thursday, November 19, 2020 10:42 AM
To: Wittig, Donna (Assoc-Las) <donna.wittig@akerman.com>; joseph hong <yosuphonglaw@gmail.com>; Morgan, Melanie (Ptnr-Las) <melanie.morgan@akerman.com>; Lachman, Scott (Assoc-Las) <scott.lachman@akerman.com>; Brittany Wood <bwood@mauricewood.com>; J Thomson <jwtlaw@ymail.com>
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C

I am attaching the order granting Red Rock’s motion to dismiss and all joinders that has the changes requested by the Court. If you approve of this order, please respond to this email authorizing me to attach your e-signature.

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Order Granting
Defend...n.docx

From: Brody Wight bwight@kochscow.com 
Subject: Order Granting Motion to Dismiss Tobin v. Chiesti A-19-799890-C
Date: November 19, 2020 at 10:42 AM



To: donna.wittig@akerman.com, joseph hong yosuphonglaw@gmail.com, melanie.morgan@akerman.com, scott.lachman@akerman.com, **Brittany Wood** bwood@mauricewood.com, **J Thomson** jwtlaw@ymail.com

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John, I am aware that you do not approve of the order and will attach the letter you sent regarding the order as an exhibit to the order per the Court's request.



Order Granting
Defend...n.docx

Brody Wight
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bwight@kochscow.com

EXHIBIT 2

EXHIBIT 2

LAW OFFICE OF JOHN W. THOMSON
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HENDERSON, NV 89074
OFFICE: 702-478-8282
FAX: 702-541-9500
EMAIL: johnwthomson@ymail.com/jwtlaw@ymail.com

October 27, 2020

Via Email Only:

David Koch – dkoch@kochscow.com
Brody Wight – bwight@kochscow.com
Daniel Scow – dscow@kochscow.com
Steven Scow – sscow@kochscow.com
Donna Wittig – donna.wittig@akerman.com
Melanie Morgan – Melanie.morgan@akerman.com
Joseph Hong – yosuphonglaw@gmail.com
Brittany Wood – bwood@mauricewood.com

Re: Tobin v. Chiesi, et al
Case No.: A-19-799890-C

Dear Counsel:

Please see below Nona Tobin’s comments and objections to the Order:

1. On January 31, 2017, Tobin, in her capacity as the trustee of the Gordon B. Hansen Trust (the “Trust”), filed a Cross-claim against the Sun City Anthem Community Association (the “HOA”) in District Court Case No. A-15-720032-C (the “Previous Case” or “Previous Action”) claiming the HOA, through its collection agent Red Rock, wrongfully foreclosed on a residence owned by the Trust and located at 2763 White Sage Drive, Henderson, Nevada 89052 (the “Property”) on August 15, 2014.

Claims were brought in both capacities as Trustee and an Individual. The proposed pleadings attached to the 11/15/16 Motion to Intervene, the 12/20/16 hearing minutes & Recorder’s Transcript Tobin as filing as an individual beneficiary & Gordon B. Hansen Trust, trustee. Her acceptance as an individual party was reaffirmed at a hearing on 4/27/17 See Recorder’s Transcript Page.

2. In that same litigation, Tobin brought claims against the Jimijack Defendants as successors in interest to the party that purchased the Property at the foreclosure.

Tobin/Gordon B. Hansen Trust's primary claim was never adjudicated at trial, i.e., that Jimijack had no valid interest as its deed was inadmissible per NRS 111.345 & was not the successor in interest to the party that purchased the property at foreclosure. Jimijack evaded judicial scrutiny of Jimijack's defective deed by transferring Jimijack's deed to non-party Joel Stokes as an individual five weeks before the trial that allegedly adjudicated the Gordon B. Hansen Trust's quiet title claim v Jimijack.

3. Tobin's central allegation in the Previous Case was that Red Rock committed fraud and wrongfully colluded with several parties, including the HOA, in foreclosing on the Property without complying with the requirements of NRS Chapter 116 or the HOA's governing documents. (*Id.* at ¶ 17).

The documents and record speak for themselves, and the summary here is not adequate.

4. Tobin's Cross-claim in the Previous Case listed a host of allegations of wrongdoing against including claims that Red Rock failed to provide the Trust with proper notice of the foreclosure sale and that it frequently misstated the amounts due and owing to the HOA under the HOA lien.

Tobin/Gordon B. Hansen Trust filed six causes of actions vs. Sun City Anthem. Sun City Anthem's Motion for Summary Judgment addressed quiet title only. Court rejected the Ombudsman's notice of sale log because it was not authenticated. It was authenticated on 4/15/19, but the court did not consider it.

5. The Cross-claim in the Previous Case contained a cause of action against the HOA for quiet title and equitable relief claiming that Red Rock's actions caused the foreclosure sale to be null and void as well as causes of action for civil conspiracy, fraud, unjust enrichment, and breach of contract. The allegations of each of those claims centered around Red Rock.

The degree to which Red Rock & FSR misled the HOA Board, usurped control of funds belonging to the HOA and other parties was revealed during discovery of the prior proceedings but there was no judicial scrutiny of the evidence because Sun City Anthem's attorneys misrepresented the Red Rock foreclosure file as Sun City Anthem's official records and concealed the HOA's verified, corroborated agendas, minutes, and ownership accounts.

These claims were not heard. Five of the six causes of actions were dismissed to go to mediation, but were not returned. Sun City Anthem Motion for Summary Judgment was a partial Motion for Summary Judgment.

There are things about Red Rock's fraud that were only discovered during discovery in the first proceedings. Tobin was prevented from addressing them at trial because she was removed as a Party in her individual capacity; documentary evidence was all excluded from trial, Page 18 of 1/31/17 cross-claim, failure to distribute proceeds, and many other findings of fact were misrepresented in the 4/17/19 Sun City Anthem Motion for Summary Judgment.

6. The Cross-claim in the Previous Case alleged that it was Red Rock that conspired, Red Rock that committed fraud, Red Rock that was unjustly enriched, and Red Rock that breached the contract, but the Cross-claim did not list Red Rock as a party.

None of these claims were heard. See # 13

Red Rock was not a party in the prior suit. Tobin tried to add them in her attempted amendment of her 1/31/17 Cross-Claim vs Sun City Anthem that it could not have any added parties or claims, but the Court wouldn't allow it. See 1/10/19 Recorder's Transcript.

7. On February 5, 2019, the HOA brought a motion for summary judgment seeking the dismissal of the Trust's Cross-claim. The HOA argued that Red Rock clearly complied with all requirements of law in foreclosing on the Property and carefully presented the court with all of the notices Red Rock provided.

Disagree. It was a partial Motion for Summary Judgment vs. the Gordon B. Hansen Trust on the quiet title claim. It did not address five of the six causes of actions in the 1/31/17 CRCM that all parties agreed on 3/26/19 hearing (See Recorder's Transcript) was the operative pleading.

Misstates what happened. While it is true that the HOA argues these points, it did so without any verified, corroborated supporting evidence and by unverified, uncorroborated Red Rock foreclosure file as if it was the HOA's official record.

Sun City Anthem's assisted Red Rock's alleged fraud by presenting inaccurate notices that were never sent, as if they were real, and concealed from discovery the actual official HOA records that support Tobin's and Leidy's declarations made under penalty of perjury.

8. The Trust filed an opposition attempting to defend its allegations with a declaration from Tobin attached that claimed the Trust owned the Property.

Tobin's 3/6/19 declaration under penalty of perjury was consistent with the many other declarations she made under penalty of perjury (9/23/16, 1/17/17, 3/14/19, 3/22/19, 4/20/19).

This implies there was some conflict in her statement about who owned it at the time of the sale and how she acquired title as an individual, but alternate theories of recovery are allowed.

Further, this 3/6/19 declaration was not considered by the court at the 3/26/19 hearing because the court had granted the HOA's Motion for Summary Judgment and Nationstar Mortgage's sua sponte on 3/5/19.

9. On April 17, 2019, the court in that case signed an order granting the HOA's motion in its entirety reasoning that "[t]he totality of the facts evidence that the HO properly followed the processes and procedures in foreclosing upon the Property." (Exhibit 4, pg. 9).

While it is true that is what the order says, there are many disputed facts in that order. See Tobin 4/20/19 DECL that was exhibit 1 to the 5/23/19 Reply to SCA's opposition to reconsider.

All evidence, meaning all sworn affidavits, declarations under penalty of perjury by Teralyn Lewis -Nevada Real Estate Division Custodian of Records; Craig Leidy- 2014 listing agent; Doug Proudfit- 2012-2013 Listing agent; Linda Proudfit – Proudfit Realty Custodian of Records; Steve Hansen – co-beneficiary to the Gordon B. Hansen Trust until 3/27/17; and Nona Tobin as well as all verified & corroborated documentary evidence support Nona Tobin's claims.

The court erred in relying solely on the HOA's oral arguments and Red Rock's unverified, uncorroborated file; ignoring all of the verified evidence that contradicts that statement.

10. Tobin, as the trustee to the Trust also brought identical claims against the Jimijack Defendant, as successors in interest to the party that purchased the Property at the foreclosure, in the Previous Case. After a full trial on the merits, the Court entered a judgment on June 24, 2019 finding in favor of the Jimijack Defendants and against the Trust on all of the Trust's claims in part due to the fact that the claims were precluded by the order granting summary judgment.

The 5 causes of actions of Tobin/Gordon B. Hansen Trust's 2/1/17 AACC vs Joel & Sandra as Trustees of Jimijack were not identical to the claims against the HOA and no claims against Jimijack were heard at trial. There was no "full trial on the merits". Joel A. Stokes, a party in this case, who held Jimijack's recorded interest as of 5/1/19, was not a party in either of the

consolidated cases. The court was not aware at trial that non-party Joel Stokes had encumbered the property with a \$355,000 deed of trust from non-party Civic Financial Services. The Stokes-Civil Financial Services Deed of Trust was wrongly identified as the Jimijack-Nationstar Mortgage “settlement” even though neither NSM nor Jimijack was party to Stokes-Civil Financial Services Deed of Trust.

Further, Plaintiff Jimijack that did not have an admissible deed filed, no quiet title (or any other) claims, into the consolidated cases except its original 6/16/15 COMP vs BANA. BANA defaulted & JDDF was filed on 10/16/15 so BANA was not a party.

Claims preclusion should not have been applied by the court. The Sun City Anthem’s Motion for Summary Judgment was a partial Motion for Summary Judgment as it specifically limited its scope to the quiet title causes of action of the Gordon B. Hansen Trust. The Motion for Summary Judgment was specifically not addressing five of the six Gordon B. Hansen Trust causes of actions or six of Tobin’s causes of actions against Sun City Anthem. Motion for Summary did not apply to Tobin/Gordon B. Hansen Trust’s five causes of actions against Jimijack or the four causes of actions against Hong’s other client Yuen K. Lee dba F. Bondurant as Hong did not file a joinder to Sun City Anthem’s Motion for Summary Judgment and his oral motion to join at the 3/26/19 hearing was denied. (Page 20, lines 16-17 Recorder’s Transcript)

11. Nationstar, as the servicing bank for the Deed of Trust on the Property at the time of foreclosure, was also party to the Previous Case, but Tobin did not bring claims against Nationstar directly.

Nationstar Mortgage was party in the previous case because it inaccurately claimed to hold the beneficial interest of the Hansen Deed of Trust.

Tobin filed an affidavit on 9/23/16 that stated on Page 5 “23. In our scenario, Nationstar Mortgage would retain whatever security interest they had (and could legitimately prove they had in the first deed of trust on August 14, 2014 and no more.

24. Our prayer to the court would be 1) void the sale, 2) give back the title to us as the equitable titleholders prior to the fraudulent HOA sale, and 3) not allow NSM's claims to a security interest prevail by bypassing the requirements of Nevada's 2011 anti-foreclosure fraud law.” (AB 284 2011)

25. I believe Nationstar Mortgage's claims are clearly contradicted by evidence I possess.”

12. Shortly after all of her claims were denied at trial, Tobin filed a whole new complaint on August 8, 2019, but this time she filed the Complaint in her individual

capacity. Tobin then filed a First Amended Complaint on June 3, 2020 (the “Complaint”)

Filing the new claim was necessary to protect my individual rights arising from my 3/28/17 deed. The parties would have asserted they were time-barred if I had not filed an individual claim prior to the 8/14/19 statute of limitations.ⁱ

13. Tobin’s new Complaint alleges that in March 2017, in the middle of the previous litigation and before the Trust filed its motion for summary judgment against the HOA, the Trust transferred title to the Property to Tobin individually.

“...before the trust filed its Motion for Summary Judgment vs. the HOA” misstates the facts & the court record.

1/31/17 Tobin Cross-Claim vs Sun City Anthem

2/23/17 Sun City Anthem Motion to Dismiss Tobin/Gordon B. Hansen Trust per NRS 38.310

3/3/17 Tobin filed a Pro Se Motion for Summary Judgment to void the sale vs. the HOA on behalf of herself & Gordon B. Hansen Trust

3/14/17 Sun City Anthem changed attorneys from Lech to Lipson

3/22/17 Tobin gave Sun City Anthem a settlement offer to avoid litigation

3/22/17 Sun City Anthem filed Motion to Dismiss vs Tobin & Gordon B. Hansen Trust per NRCP 41 because Tobin was a Pro Se

3/31/17 Sun City Anthem filed an Opposition to Motion to Tobin Motion for Summary Judgment

4/27/17 Court denied Sun City Anthem Motion to Dismiss per 41 “as to the individual” but erred in not hearing the Tobin/Gordon B. Hansen Trust Motion for Summary Judgment which was scheduled to be heard 4/27/17

5/25/17 Sun City Anthem & Tobin/Gordon B. Hansen Trust new attorney stipulated to withdraw all claims & Tobin’s MSJ pending completion of mediation. Sun City Anthem’s 3/31/17 opposition was withdrawn erroneously as Sun City Anthem new attorney Ochoa misrepresented Sun City Anthem’s opposition as a 2nd Tobin/Gordon B. Hansen Trust Motion for Summary Judgment. Tobin/Gordon B. Hansen Trust completed mediation on 11/13/18, but her claims were not restored to the jurisdiction of the court as her 4/9/19, 4/12/19, 7/26/19 notices of completion of mediation and her 7/29/19 motion to dismiss per 38.310 were all stricken from the record unheard. This resulted in the court refusing to hear her 3/3/17 Motion for Summary Judgment vs. Sun City Anthem, her 4/10/19 Motion for Summary Judgment vs. Jimijack and her 4/24/19 motion to vacate the Sun City Anthem partial Motion for Summary Judgment of the Gordon B. Hansen Trust’s quiet title claims & Nationstar Mortgage’s limited joinder thereto pursuant to NRCP 60 fraud on court.

14. Other than asserting claims in her individual capacity, Tobin’s current action is based, once again, on allegations that Red Rock did not comply with the requirements of law in foreclosing on the Property in August 2014.

Tobin filed the claims that the HOA's agent did not comply with legal requirements in an individual capacity in the prior case, but the court did not hear her as an individual previously, and so the court was unaware of the specific evidence of Red Rock's falsification of its unverified, uncorroborated foreclosure file, keeping two sets of books, taking the authority of the HOA Board to retain proprietary control over funds collected for the benefit of the HOA, conspiring with Nationstar Mortgage to mischaracterize Nationstar Mortgage's rejected \$1100 tender to close the 5/8/14 \$367,500 auction.com sale, authenticated Ombudsman's log shows there was no notice of sale in effect when the 8/15/14 sale was held that was uncovered during the prior proceedings, so she reasserts those claims in the current case. The claim that Red Rock wrongly retained the proceeds of the sale was on page 18-19 of the 1/31/17 Cross-Claim vs. Sun City Anthem, but was never heard because Tobin was prohibited from adding back in the 5 of 6 causes of actions that were withdrawn pending completion of mediation. Tobin's individual motions and notices were all stricken from the record unheard.

15. The Complaint specifically brings claims against all of the Defendants for quiet title, unjust enrichment, and declaratory relief based entirely on allegations that Red Rock wrongfully foreclosed on the Property.

Disagree. The complaint speaks for itself and the summary is inadequately simple and incorrect. The claim against Nationstar Mortgage is that it never was the beneficial owner of the Hansen deed of trust, and is judicially estopped from claiming to own it now. However, because Nationstar Mortgage misrepresented to the court that Tobin's choosing to move to void the sale subject to the Hansen Deed of Trust meant that Tobin/Gordon B. Hansen Trust and Nationstar Mortgage were not opposing parties. Nationstar Mortgage therefore "settled out of court" and dropped its quiet title claims without meeting its burden of proof. Further, if the sale was valid to extinguish the Gordon B. Hansen Trust's interest, then it was valid to extinguish the Hansen Deed of Trust. Also, Nationstar Mortgage & Red Rock both concealed that the Nationstar Mortgage offer of \$1100 and the 3/28/14 Red Rock Financial Services pay off demand to Chicago title the complaint against Jimijack was that the deed was fraudulent and inadmissible per NRS 111.345. All other defendant's deeds that stemmed from Jimijack's are void as well. These are new claims never heard.

16. The Complaint brings the above claims against the Jimijack Defendants and Chiesi Defendants presumably because those Defendants obtained interests in the Property after foreclosure. The Complaint alleges that Nationstar was the servicer on the Deed of Trust on the Property at the time of foreclosure, but the Complaint does not specify why Nationstar was named as a defendant in the current action.

Nationstar Mortgage did not admit that it was only the servicer and not the beneficiary until after the end of discovery, and then they immediately contradicted it by recording a claim that contradicted its previous claim of being the beneficiary. Nationstar Mortgage recorded false claims related to the disputed Hansen DOT on 12/1/14, two on 3/8/19, 1/22/15, 8/17/15, and 6/3/19. In settlement with the other parties, the Jimijack-Nationstar Mortgage settlement, they decided to recording documents on 5/1/19 and 5/23/19 which clouded the title with reassignments of the Stokes-CFS DOT on 6/4/19 and 7/17/19. Chiesi/Quicken defendants recorded claims adverse to Tobin's claimed interest on 12/27/19 during the pendency of these proceedings and the appeal of the prior case. NSM reconveyed the Hansen deed of trust to Joel Stokes as an individual instead of to the estate of the borrower; while the Stokes-Civil Financial Services Deed of Trust still encumbered the property.

17. On June 23, 2020, Red Rock filed a motion to dismiss arguing, in part, that all of Tobin's claims are barred by the doctrines of claim preclusion and nonmutual claim preclusion. The remaining Defendants all properly joined Red Rock's motion.

Claims preclusion is not supported by the facts. Tobin's individual claims in the prior case were not heard. Nationstar Mortgage's claims were not heard because they were dismissed without Tobin's consent, allegedly in order to evade judicial scrutiny of any evidence, and creating a side deal with Jimijack to thwart Tobin's ownership interest. Jimijack didn't have any claims to adjudicate, but somehow won without any claims or any evidence.

Different parties, different claims, no fair adjudication previously equals no applicability of claims preclusion doctrine.

18. In their joinders, the Chiesi Defendants and the Jimijack Defendants requested this Court grant them attorney's fees and costs for defending against Tobin's claims. The Jimijack Defendant's Motion for Attorney's Fees and Costs were pursuant to EDCR Rule 7.60(b)(1) and/or (3).

The attorney fees and costs are separate matters and should not be included in the Order granting motion to dismiss.

Sincerely,

/s/ John W. Thomson

John W. Thomson. Esq.

JWT/ac

cc: Nona Tobin

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Nona Tobin, Plaintiff(s)

CASE NO: A-19-799890-C

7 vs.

DEPT. NO. Department 22

8 Joel Stokes, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/3/2020

15 David Koch

dkoch@kochscow.com

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17 Akerman LLP

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18 Andrea Eshenbaugh - Legal Assistant

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19 Donna Wittig

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

August 11, 2020

A-19-799890-C Nona Tobin, Plaintiff(s)
vs.
Joel Stokes, Defendant(s)

August 11, 2020 8:30 AM All Pending Motions

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Jill Chambers

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Chiesti, Brian	Defendant
	Chiesti, Debora	Defendant
	Hong, Joseph Y.	Attorney
	Thomson, John W.	Attorney
	Wight, Brody R.	Attorney
	Wittig, Donna	Attorney
	Wood, Brittany	Attorney

JOURNAL ENTRIES

- DEFENDANT RED ROCK FINANCIAL SERVICES, LLC'S MOTION TO DISMISS COMPLAINT PURSUANT TO NRCP 12(B)(5) AND (6) NATIONSTAR'S JOINDER TO DEFENDANT RED ROCK FINANCIAL SERVICES' MOTION TO DISMISS FIRST AMENDED COMPLAINT JOEL A. STOKES, JOEL A. STOKES AND SANDRA STOKES, AS TRUSTEES OF THE JIMI JACK IRREVOCABLE TRUST, AND JIMI JACK IRREVOCABLE TRUST'S JOINDER TO DEFENDANT, RED ROCK FINANCIAL SERVICES, MOTION TO DISMISS FIRST AMENDED COMPLAINT AND FOR ATTORNEY'S FEES AND COSTS PURSUANT TO E.D.C.R. RULE 7.60(B)(1) AND/OR (3) BRIAN AND DEBORA CHIESI AND QUICKEN LOAN INC.'S JOINDER TO DEFENDANT RED ROCK FINANCIAL SERVICE'S MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT

Counsel appearing remotely via Bluejeans.

Argument by counsel. COURT ORDERED, Defendant Red Rock Financial Services, LLC's Motion to Dismiss Complaint, GRANTED adding that the Court would take the request for attorney fees under advisement. Mr. Wight to prepare the order.

DISTRICT COURT
CLARK COUNTY, NEVADA

Other Title to Property

COURT MINUTES

October 29, 2020

A-19-799890-C Nona Tobin, Plaintiff(s)
vs.
Joel Stokes, Defendant(s)

October 29, 2020 9:00 AM Motion for Attorney Fees
and Costs

HEARD BY: Johnson, Susan COURTROOM: RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Hong, Joseph Y.	Attorney
	Thomson, John W.	Attorney
	Tobin, Nona	Plaintiff
	Wood, Brittany	Attorney

JOURNAL ENTRIES

- Arguments by Ms. Wood and Mr. Thompson regarding whether or not the 31.6 billed hours were reasonable and necessary.
COURT ORDERED, matter taken UNDER ADVISEMENT; advised it wanted to review the attorneys fees in lieu of the Brunzell factors; matter SET for hearing.

11/03/2020 - 8:30 AM - DEFENDANTS, JOEL A. STOKES AND SANDRA STOKES, AS TRUSTEES OF THE JIMI JACK IRREVOCABLE TRUST AND JIMI JACK IRREVOCABLE TRUST'S MOTION TO ENFORCE ORDER FOR ATTORNEY'S FEES AND COSTS AND FOR CONTEMPT AND FOR ATTORNEY'S FEES AND COSTS PURSUANT TO EDCR RULE 7.60(B)(3) AND/OR (5) AND ORDER SHORTENING TIME

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

November 03, 2020

A-19-799890-C Nona Tobin, Plaintiff(s)
vs.
Joel Stokes, Defendant(s)

November 03, 2020 8:30 AM Motion to Enforce

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT: Thomson, John W. Attorney

JOURNAL ENTRIES

- Court noted the best remedy would be for Mr. Hong to submit a proposed judgment and ORDERED, Motion DENIED WITHOUT PREJUDICE. Mr. Thomson advised there were several issues with this Motion and they should be awarded attorneys fees. Arguments by Mr. Thomson in support of attorneys fees. Court noted Mr. Thomson didn't have a pending motion for attorneys fees and advised he should file one if he felt it was appropriate.



**EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT**

**JOHN W. THOMSON, ESQ.
2450 ST. ROSE PKWY., SUITE 120
HENDERSON, NV 89074**

**DATE: December 30, 2020
CASE: A-19-799890-C**

RE CASE: NONA TOBIN vs. BRIAN CHIESTI; DEBORA CHIESTI; QUICKEN LOANS, INC.; JOEL A. STOKES;
JOEL A. STOKES and SANDRA STOKES as Trustee of JIMI JACK IRREVOCABLE TRUST; JIMI JACK
IRREVOCABLE TRUST; NATIONSTAR MORTGAGE LLC; RED ROCK FINANCIAL SERVICES

NOTICE OF APPEAL FILED: December 29, 2020

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the court.*
- Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- Order
- Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL TO THE SUPREME COURT, STATE OF NEVADA;
NONA TOBIN'S CASE APPEAL STATEMENT (ORDER GRANTING MOTION TO DISMISS);
NOTICE OF POSTING COST BOND; REQUEST FOR TRANSCRIPTS; DISTRICT COURT
DOCKET ENTRIES; ORDER GRANTING DEFENDANT RED ROCK FINANCIAL SERVICES'
MOTION TO DISMISS COMPLAINT AND ALL JOINDERS TO THE MOTION; NOTICE OF
ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

NONA TOBIN,

Plaintiff(s),

vs.

BRIAN CHIESTI; DEBORA CHIESTI;
QUICKEN LOANS, INC.; JOEL A. STOKES;
JOEL A. STOKES and SANDRA STOKES as
Trustee of JIMI JACK IRREVOCABLE TRUST;
JIMI JACK IRREVOCABLE TRUST;
NATIONSTAR MORTGAGE LLC; RED
ROCK FINANCIAL SERVICES,

Defendant(s),

Case No: A-19-799890-C

Dept No: XXII

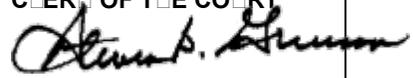
now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 30 day of December 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk



1 JOHN W. THOMSON, ESQ.
2 Nevada Bar No. 5802
3 THOMSON LAW PC
4 2450 St. Rose Parkway, Suite 120
5 Henderson, NV 89074
6 (702) 478-8282 Telephone
7 (702) 541-9500 Facsimile
8 Email: johnwthomson@ymail.com
9 Attorney for Plaintiff Nona Tobin

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 NONA TOBIN, an Individual

10 Plaintiff,

11 vs.

12
13 BRIAN CHIESI, an individual; DEBORA
14 CHIESI, an individual; QUICKEN LOANS
15 INC.; JOEL A. STOKES, an individual;
16 JOEL A. STOKES and SANDRA STOKES
17 as Trustees of JIMI JACK IRREVOCABLE
18 TRUST; JIMI JACK IRREVOCABLE
19 TRUST; NATIONSTAR MORTGAGE LLC;
20 RED ROCK FINANCIAL SERVICES;
21 DOES I through X inclusive; and ROE
22 CORPORATIONS I through V, inclusive

23 Defendants.

Case No.: A-19-799890-C
Dept No.: 22

NOTICE OF POSTING OF COST BOND

24 PLEASE TAKE NOTICE that NONA TOBIN posted a cost bond in the amount of
25 \$500.00 on December 30, 2020.

26 DATED this 30th day of December, 2020

27 LAW OFFICE OF JOHN W. THOMSON

28 By: /s/John W. Thomson

JOHN W. THOMSON, ESQ.
Nevada Bar No. 5802
2450 St. Rose Parkway, Suite 120
Henderson, Nevada 89074
Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of December, 2020, I served a true and correct copy of the foregoing **NOTICE OF POSTING OF COST BOND** by electronic service of the foregoing document shall be upon all parties listed on the Odyssey eFileNV service contact list.

/s/Annette Cooper
An employee of Thomson Law PC