

Electronically Filed
Apr 13 2022 01:30 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOAS

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*Attorneys for Bank of America, N.A. and The Bank of
New York Mellon FKA The Bank of New York, as
Trustee for the Certificateholders of CWALT, Inc.,
Alternative Loan Trust 2006 J-8, Mortgage Pass-
Through Certificates, Series 2006-J8*

DISTRICT COURT

CLARK COUNTY, NEVADA

MELISSA LIEBERMAN, an individual, on
behalf of itself and all others similarly
situated;

Plaintiff,

v.

MADEIRA CANYON HOMEOWNERS'
ASSOCIATION, a Nevada homeowners
association, NEVADA ASSOCIATION
SERVICES, INC., a Nevada corporation, BANK
OF AMERICA, N.A., a federal savings bank,
RESURGENT CAPITAL SERVICES, LP, a
national corporation, UNDERWOOD
PARTNERS, LLC, an unknown business entity,
and DOES 1 through 10, inclusive; ROE
CORPORATIONS 1 through 10, inclusive,

Defendants.

Case No.: A-13-685203-C

Dept. No.: XXIX

Consolidated with: A-13-690944-C

**BANK OF AMERICA, N.A. AND THE
BANK OF NEW YORK MELLON, AS
TRUSTEE'S NOTICE OF APPEAL**

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1 Notice is hereby given that The Bank of New York Mellon FKA The Bank of New York, as
2 Trustee for the Certificateholders of CWALT, Inc., Alternative Loan Trust 2006 J-8, Mortgage Pass-
3 Through Certificates, Series 2006-J8 (**BoNYM**) and Bank of America, N.A. (**BANA**) appeal to the
4 Nevada Supreme Court from this Court's (1) Findings of Fact, Conclusions of Law and Order on Post-
5 Remand Hearing entered on March 11, 2022, for which a Notice of Entry was entered on the same
6 day; and (2) all interlocutory orders incorporated therein.

7 DATED this 8th day of April, 2022.

8 **AKERMAN LLP**

9 /s/ Lilith V. Xara

10 MELANIE D. MORGAN, ESQ.

11 Nevada Bar No. 8215

12 LILITH V. XARA, ESQ.

13 Nevada Bar No. 13138

14 1635 Village Center Circle, Suite 200

15 Las Vegas, Nevada 89134

16 *Attorneys for Bank of America, N.A. and The Bank of*
17 *New York Mellon FKA The Bank of New York, as Trustee*
18 *for the Certificateholders of CWALT, Inc., Alternative*
19 *Loan Trust 2006 J-8, Mortgage Pass-Through*
20 *Certificates, Series 2006-J8*
21
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Akerman LLP, and that on this 8th day of April, 2022 and pursuant to NRCP 5, I caused to be served a true and correct copy of the foregoing **BANK OF AMERICA, N.A. AND THE BANK OF NEW YORK MELLON, AS TRUSTEE'S NOTICE OF APPEAL**, 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.

The Wright Law Group, P.C.

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Gayle Angulo gangulo@gordonrees.com

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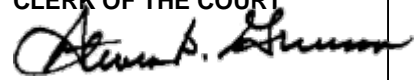
Debbie Batesel dbhonglaw@hotmail.com

Joseph Y. Hong, Esq yosuphonglaw@gmail.com

I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

/s/ Patricia Larsen

An employee of AKERMAN LLP



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13 *Attorneys for Bank of America, N.A. and The Bank of*
14 *New York Mellon FKA The Bank of New York, as*
15 *Trustee for the Certificateholders of CWALT, Inc.,*
16 *Alternative Loan Trust 2006 J-8, Mortgage Pass-*
17 *Through Certificates, Series 2006-J8*

18 **DISTRICT COURT**

19 **CLARK COUNTY, NEVADA**

20 MELISSA LIEBERMAN, an individual, on
21 behalf of itself and all others similarly
22 situated;

23 Plaintiff,

24 v.

25 MADEIRA CANYON HOMEOWNERS'
26 ASSOCIATION, a Nevada homeowners
27 association, NEVADA ASSOCIATION
28 SERVICES, INC., a Nevada corporation, BANK
OF AMERICA, N.A., a federal savings bank,
RESURGENT CAPITAL SERVICES, LP, a
national corporation, UNDERWOOD
PARTNERS, LLC, an unknown business entity,
and DOES 1 through 10, inclusive; ROE
CORPORATIONS 1 through 10, inclusive,

Defendants.

Case No.: A-13-685203-C
Dept. No.: XXIX

Consolidated with: A-13-690944-C

**BANK OF AMERICA, N.A. AND THE
BANK OF NEW YORK MELLON, AS
TRUSTEE'S CASE APPEAL
STATEMENT**

1 The Bank of New York Mellon FKA The Bank of New York, as Trustee for the
2 Certificateholders of CWALT, Inc., Alternative Loan Trust 2006 J-8, Mortgage Pass-Through
3 Certificates, Series 2006-J8 and Bank of America, N.A. submit their Case Appeal Statement pursuant
4 to NRAP 3(f)(3).

5 1. The appellants filing this case appeal statement are The Bank of New York Mellon
6 FKA The Bank of New York, as Trustee for the Certificateholders of CWALT, Inc., Alternative Loan

1 Trust 2006 J-8, Mortgage Pass-Through Certificates, Series 2006-J8 (**BoNYM**) and Bank of America,
2 N.A. (**BANA**) (collectively, **Appellants**).

3 2. The orders appealed are Judge Jones's (1) Findings of Fact, Conclusions of Law and
4 Order on Post-Remand Hearing entered on March 11, 2022, for which a Notice of Entry was entered
5 on the same day; and (2) all interlocutory orders incorporated therein.

6 3. Counsel for Appellants are Melanie D. Morgan, Esq. and Lilith V. Xara, Esq. of
7 AKERMAN LLP, 1635 Village Center Circle, Suite 200, Las Vegas, Nevada 89134.

8 4. Trial counsel for Respondent NV Eagles LLC (**Respondent**) is John Henry Wright,
9 Esq. of THE WRIGHT LAW GROUP, P.C., 2340 Paseo Del Prado, Suite D-305, Las Vegas, Nevada
10 89102. Appellants are not aware whether trial counsel for Respondent will also act as its appellate
11 counsel.

12 5. Counsel for Appellants are licensed to practice in Nevada. Trial counsel for
13 Respondent is licensed to practice law in Nevada.

14 6. Appellants are represented by retained counsel in the district court.

15 7. Appellants are represented by retained counsel on appeal.

16 8. Appellants were not granted leave to proceed *in forma pauperis* by the district court.

17 9. The date proceedings commenced in the district court was July 16, 2013.

18 10. In this consolidated action, Respondent asserted quiet title and cancellation of
19 instruments claims against Respondents, contending that it owns property located at 2184 Pont
20 National Drive, Henderson, Nevada 89044 (**property**), free and clear of BoNYM's deed of trust after
21 Respondent's predecessor-in-interest, Underwood Partners, LLC (**Underwood**), purchased the
22 property at a foreclosure sale conducted by Nevada Association Services, Inc. (**NAS**) on behalf of
23 Madeira Canyon Homeowners Association (**HOA**). BoNYM asserted quiet title and declaratory relief
24 crossclaims against Respondent, contending the deed of trust survived because BANA's counsel at
25 Miles, Bauer, Bergstrom & Winters, LLP (**Miles Bauer**) tendered payment for what it calculated to
26 be the superpriority amount of the HOA's lien – even though both BANA and Miles Bauer had
27 knowledge of NAS's global tender-rejection policy – before NAS's foreclosure sale. NAS rejected
28

1 Miles Bauer's tender pursuant to its known policy. Respondent never answered BoNYM's
2 crossclaims.

3 Following a bench trial, the district court entered judgment, certified as final under NRC
4 54(b), in Respondent's favor, holding Respondent took title to the property free and clear of BoNYM's
5 deed of trust because Miles Bauer's tender was for slightly less than the superpriority amount. It did
6 not address Appellants' tender futility argument. Appellants appealed the final judgment to the Nevada
7 Supreme Court, which entered an order vacating the district court's judgment, noting that Appellants
8 supported their tender futility argument with "evidence—including testimony from [NAS's paralegal]
9 and evidence of NAS's testimony from previous cases—to show NAS had a 'known business practice
10 to systematically reject any check tendered for less than the full lien amount,'" and remanding for the
11 district court to consider tender futility.

12 Following post-remand briefing, the district court ruled in favor of Respondent, holding that
13 NAS's known policy of rejecting all tenders that were for less than the full amount of an HOA's lien
14 was irrelevant because Miles Bauer had attempted to tender its calculation of the superpriority amount.
15 The district court granted quiet title to the property free and clear of BoNYM's deed of trust.

16 11. This case has been the subject of a previous appeal: Nevada Supreme Court Case No.
17 81239.

18 12. This appeal does not involve child custody or visitation.

19 13. Appellants are willing to discuss settlement with Respondent.

20 DATED this 8th day of April, 2022.

21 **AKERMAN LLP**

22 /s/ Lilith V. Xara

23 MELANIE D. MORGAN, ESQ.

24 Nevada Bar No. 8215

25 LILITH V. XARA, ESQ.

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28 Las Vegas, Nevada 89134

*Attorneys for Bank of America, N.A. and The Bank of
New York Mellon FKA The Bank of New York, as Trustee
for the Certificateholders of CWALT, Inc., Alternative
Loan Trust 2006 J-8, Mortgage Pass-Through
Certificates, Series 2006-J8*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Akerman LLP, and that on this 8th day of April, 2022 and pursuant to NRCP 5, I caused to be served a true and correct copy of the foregoing **BANK OF AMERICA, N.A. AND THE BANK OF NEW YORK MELLON, AS TRUSTEE'S CASE APPEAL STATEMENT**, 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.

The Wright Law Group, P.C.

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Debbie Batesel dbhonglaw@hotmail.com
Joseph Y. Hong, Esq yosuphonglaw@gmail.com

I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

/s/ Patricia Larsen

An employee of AKERMAN LLP

CASE SUMMARY**CASE NO. A-13-685203-C**

Melissa Lieberman, Plaintiff(s)
vs.
Mediera Canyon Community Association, Defendant
(s)

§
§
§
§
§
§

Location: **Department 29**
 Judicial Officer: **Jones, David M**
 Filed on: **07/16/2013**
 Case Number History:
 Cross-Reference Case **A685203**
 Number:
 Supreme Court No.: **81239**

CASE INFORMATION

Related Cases
 A-13-690944-C (Consolidated)

Case Type: **Title to Property**
 Subtype: **Quiet Title**

Statistical Closures

03/07/2022 Other Manner of Disposition
 02/06/2021 Other Manner of Disposition
 08/10/2017 Involuntary Dismissal

Case
 Status: **03/07/2022 Closed**

DATE**CASE ASSIGNMENT****Current Case Assignment**






Case Number A-13-685203-C
 Court Department 29
 Date Assigned 01/04/2021
 Judicial Officer Jones, David M

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Lieberman, Melissa	Pro Se
Defendant	Bank of America NA	Stern, Ariel E. <i>Retained</i> 702-634-5000(W)
	Mediera Canyon Community Association	Hardy, Joseph P. <i>Retained</i> 702-577-9300(W)
	Nevada Association Services Inc Removed: 02/14/2014 Dismissed	Vilkin, Richard J. <i>Retained</i> 702-990-3596(W)
	Resurgent Capital Services LP Removed: 11/21/2018 Dismissed	
	Underwood Partners LLC	Wright, John H. <i>Retained</i> 702-405-0001(W)
Consolidated Case Party	NV Eagles LLC	Wright, John H. <i>Retained</i> 702-405-0001(W)
Counter Claimant	Nevada Association Services Inc	Vilkin, Richard J. <i>Retained</i> 702-990-3596(W)
Counter Defendant	Lieberman, Melissa	Pro Se

CASE SUMMARY**CASE NO. A-13-685203-C**

Cross Claimant	Bank of New York Mellon	Stern, Ariel E. <i>Retained</i> 702-634-5000(W)
	NV Eagles LLC	Wright, John H. <i>Retained</i> 702-405-0001(W)
Cross Defendant	Bank of America NA	Stern, Ariel E. <i>Retained</i> 702-634-5000(W)
	Bank of New York Mellon	Stern, Ariel E. <i>Retained</i> 702-634-5000(W)
	NV Eagles LLC	Wright, John H. <i>Retained</i> 702-405-0001(W)
	Bank of New York Mellon	Stern, Ariel E. <i>Retained</i> 702-634-5000(W)
Third Party Defendant	Cogburn Law Offices	
	Lawyers Title of Nevada Inc Removed: 11/04/2015 Dismissed	Wang, Christina H. <i>Retained</i> 702-667-3000(W)
	Pulte Mortgage LLC Removed: 10/30/2013 Dismissed	
	Teran, Norma	
	Nevada Association Services Inc	Vilkin, Richard J. <i>Retained</i> 702-990-3596(W)
Third Party Plaintiff		

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
07/16/2013	 Complaint Filed By: Counter Defendant Lieberman, Melissa <i>[1] Complaint</i>	
07/16/2013	 Initial Appearance Fee Disclosure Filed By: Counter Defendant Lieberman, Melissa <i>[2] Initial Appearance Fee Disclosure</i>	
07/16/2013	Case Opened	
08/02/2013	 Declaration Filed By: Counter Defendant Lieberman, Melissa <i>[3] Declaraton of Service - Resurgent Capital Services LP</i>	
08/05/2013	 Amended Complaint Filed By: Counter Defendant Lieberman, Melissa <i>[4] First Amended Complaint</i>	
08/06/2013	 Affidavit of Service	

CASE SUMMARY

CASE NO. A-13-685203-C

	<p>Filed By: Counter Defendant Lieberman, Melissa Party Served: Third Party Plaintiff Nevada Association Services Inc [5] <i>Affidavit of Service - Nevada Association Services Inc</i></p>
08/15/2013	<p> Affidavit of Service Filed By: Counter Defendant Lieberman, Melissa Party Served: Defendant Underwood Partners LLC [6] <i>Affidavit of Service - Underwood Partners LLC</i></p>
08/19/2013	<p> Answer and Counterclaim Filed By: Third Party Plaintiff Nevada Association Services Inc [7] <i>Answer Of Defendant Nevada Association Services, Inc.; Counterclaims Of Counterclaimant Nevada Association Services</i></p>
08/19/2013	<p> Third Party Complaint TPP: Third Party Plaintiff Nevada Association Services Inc [8] <i>Third Party Complaint By Nevada Association Services, Inc.</i></p>
08/28/2013	<p> Motion to Dismiss Filed By: Defendant Underwood Partners LLC [9] <i>Underwood Partner's Motion to Dismiss or, in the alternative, Motion for Summary Judgment</i></p>
08/29/2013	<p> Initial Appearance Fee Disclosure Filed By: Defendant Underwood Partners LLC [10] <i>Initial Appearance Fee Disclosure</i></p>
08/30/2013	<p> Notice of Intent to Take Default Party: Counter Defendant Lieberman, Melissa [11] <i>Notice of Intent to take Default Against Defendant Madeira Canyon Homeowners Association</i></p>
09/04/2013	<p> Amended Certificate of Service Party: Defendant Underwood Partners LLC [12] <i>Amended Certificate of Service for Motion to Dismiss Or, In The Alternative, Motion For Summary Judgment</i></p>
09/04/2013	<p> Notice of Hearing Filed By: Counter Defendant Lieberman, Melissa [13] <i>Notice of Hearing On Motion To Dismiss Or, In The Alternative, Motion For Summary Judgment</i></p>
09/12/2013	<p> Answer to Amended Complaint Filed By: Cross Defendant Bank of America NA [14] <i>Bank of America, N.A.'s Answer to Plaintiff's First Amended Complaint</i></p>
09/12/2013	<p> Answer to Third Party Complaint Filed By: Cross Defendant Bank of New York Mellon [16] <i>BNY Mellon's, as Trustee, Answer to Nevada Association Services, Inc.'s Third Party Complaint</i></p>
09/12/2013	<p> Opposition to Motion to Dismiss Filed By: Cross Defendant Bank of America NA [18] <i>Bank of America, N.A.'s and BNY Mellon, as Trustee, Opposition to Underwood Partners, LLC's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment</i></p>

CASE SUMMARY

CASE NO. A-13-685203-C

09/12/2013	 Initial Appearance Fee Disclosure Filed By: Cross Defendant Bank of New York Mellon <i>[17] Initial Appearance Fee Disclosure</i>
09/12/2013	 Initial Appearance Fee Disclosure Filed By: Cross Defendant Bank of America NA <i>[15] Initial Appearance Fee Disclosure</i>
09/19/2013	 Opposition to Motion Filed By: Counter Defendant Lieberman, Melissa <i>[19] Opposition to Defendant Underwood Partner's Motion to Dismiss or in the alternative Motion for Summary Judgment in Lieu of Answer</i>
09/25/2013	 Three Day Notice of Intent to Default Filed By: Third Party Plaintiff Nevada Association Services Inc <i>[20] Three-Day Notice Of Intenet To Take Default Against Counterdefendant Melissa Lieberman</i>
09/30/2013	 Affidavit of Service Filed By: Third Party Plaintiff Nevada Association Services Inc Party Served: Third Party Defendant Cogburn Law Offices <i>[21] Affidavit of Service - Cogburn Law Offices (on TP Complain)</i>
09/30/2013	 Affidavit of Service Filed By: Third Party Plaintiff Nevada Association Services Inc Party Served: Third Party Defendant Teran, Norma <i>[22] Affidavit of Service - Norman Teran (on TP Complaint)</i>
10/01/2013	 Reply Filed by: Counter Defendant Lieberman, Melissa <i>[23] Plaintiff/Counter-defendant Melissa Lieberman's Reply to Counterclaimants Counterclaims</i>
10/03/2013	 Motion to Dismiss Filed By: Third Party Defendant Cogburn Law Offices <i>[25] Third Party Defendants' Motion to Dismiss Third Party Complaint by Nevada Association Services, Inc. Pursuant to Nev. R. Civ. P. 12(b)(5) and Countermotion for Sanctions Pursuant to N.R.S. 7.085.</i>
10/03/2013	 Affidavit of Service Filed By: Third Party Plaintiff Nevada Association Services Inc Party Served: Third Party Defendant Cogburn Law Offices <i>[24] Affidavit of Service - Cogburn Law Offices LLC (on TP Complaint)</i>
10/07/2013	 Notice of Deposit Filed By: Third Party Plaintiff Nevada Association Services Inc <i>[26] Notice of Deposit by Third-Party Complainant Nevada Association Services, Inc. of Interpled Funds with the Court</i>
10/08/2013	 Affidavit of Service Filed By: Counter Defendant Lieberman, Melissa <i>[27] Affidavit of Service - Mortgage Electronic Systems Inc (on TP Complaint)</i>
10/14/2013	 Reply Filed by: Defendant Underwood Partners LLC

CASE SUMMARY

CASE NO. A-13-685203-C

[30] Defendant, Underwood Partner's Reply to Plaintiff's Opposition to Motion to Dismiss or, in the Alternative, Motion for Summary Judgment

10/14/2013



Change of Address

Filed By: Defendant Underwood Partners LLC

[28] Change of Address and Phone Number

10/14/2013



Reply

Filed by: Defendant Underwood Partners LLC

[29] Defendant, Underwood Partner's LLC's Reply to Bank of America and BNY Mellon's Opposition to Motion to Dismiss or, in the Alternative, Motion for Summary Judgment

10/16/2013



Receipt of Copy

Filed by: Defendant Underwood Partners LLC

[31] Receipt of Copy

10/21/2013



Opposition to Motion to Dismiss

Filed By: Third Party Plaintiff Nevada Association Services Inc

[32] Opposition by Third-Party Plaintiff Nevada Association Services, Inc. to Motion to Dismiss its Third-Party Complaint by Third-Party Defendants Cogburn Law Offices and Norma Teran; Opposition to Countermotion for Sanctions

10/22/2013



Affidavit of Service

Filed By: Counter Defendant Lieberman, Melissa

[33] Affidavit of Service

10/28/2013



Commissioners Decision on Request for Exemption - Granted

[34] Commissioner s Decision on Request for Exemption

10/30/2013



Stipulation and Order

[35] Stipulation and Order re Dismissal of Third Party Defendant Pulte Mortgage, LLC

10/31/2013



Notice of Entry of Order

Filed By: Third Party Defendant Cogburn Law Offices

[37] Notice Of Entry Of Stipulation And Order Re Dismissal Of Third Party Defendant Pulte Mortgage, LLC

10/31/2013



Notice of Change of Firm Name

Filed By: Cross Defendant Bank of America NA

[36] Notice of Change of Firm Name

11/01/2013



Arbitration File

[38] Arbitration File

11/12/2013



Notice of Intent to Take Default

Party: Counter Defendant Lieberman, Melissa

[39] Notice of Intent to take Default on Defendant Madeira Canyon Homeowner's Association

11/12/2013



Notice of Intent to Take Default

Party: Counter Defendant Lieberman, Melissa

[40] Notice of Intent to Take Default Against Defendant Resurgent Capital Services

11/13/2013



Initial Appearance Fee Disclosure

Filed By: Defendant Mediera Canyon Community Association

CASE SUMMARY

CASE NO. A-13-685203-C

	<i>[42] Madeira Canyon Homeowners' Association's Initial Appearance Fee Disclosure</i>
11/13/2013	 Notice of Appearance Party: Defendant Mediera Canyon Community Association <i>[41] Notice of Appearance on Behalf of Madeira Canyon Homeowners' Association</i>
11/20/2013	 Motion to Dismiss Filed By: Third Party Plaintiff Nevada Association Services Inc <i>[43] Motion By Defendant Nevada Association Services, Inc. To Dismiss Plaintiff's Complaint And For Attorney's Fees And Costs</i>
11/21/2013	 Certificate of Mailing Filed By: Third Party Plaintiff Nevada Association Services Inc <i>[44] Certificate Of Mailing</i>
12/10/2013	 Affidavit of Service Filed By: Counter Defendant Lieberman, Melissa <i>[45] Affidavit of Service</i>
12/18/2013	 Opposition to Motion to Dismiss Filed By: Counter Defendant Lieberman, Melissa <i>[46] Plaintiff's Opposition to Motion by Defendant Nevada Association Services, Inc. to Dismiss Plaintiff's Complaint and for Attorney's Fees and Costs</i>
12/20/2013	 Answer to Amended Complaint Filed By: Defendant Mediera Canyon Community Association <i>[47] Madeira Canyon Homeowners' Association's Answer to First Amended Complaint and Demand for Jury Trial</i>
01/02/2014	 Reply in Support Filed By: Third Party Plaintiff Nevada Association Services Inc <i>[48] Reply Brief by Defendant Nevada Association Services, Inc. in Support of its Motion to Dismiss Plaintiff's Complaint and for Attorney's Fees and Costs</i>
01/03/2014	 Substitution of Attorney Filed by: Defendant Underwood Partners LLC <i>[49] Substitution of Attorneys</i>
01/09/2014	 Order Filed By: Third Party Defendant Teran, Norma <i>[50] Conclusion of Law and Order Granting Third Party Defendants' Motion to Dismiss</i>
01/09/2014	 Notice of Entry of Order Filed By: Counter Defendant Lieberman, Melissa <i>[51] Notice of Entry of Order</i>
01/21/2014	 Order Granting Filed By: Defendant Underwood Partners LLC <i>[52] Order Granting in Part and Denying in Part Defendant, Underwood Partners, LLC's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment</i>
02/14/2014	 Order Granting Motion Filed By: Third Party Plaintiff Nevada Association Services Inc <i>[53] Order Granting The Motion By Defendant Nevada Association Services, Inc. To Dismiss Plaintiff's Complaint</i>

CASE SUMMARY

CASE NO. A-13-685203-C

02/15/2014	 Notice of Entry of Order Filed By: Defendant Mediera Canyon Community Association <i>[54] Notice Of Entry Of Order</i>
02/20/2014	 Motion to Consolidate Filed By: Defendant Underwood Partners LLC <i>[55] Defendant Underwood Partners, LLC's Motion to Consolidate</i>
03/03/2014	 Notice of Non Opposition Filed By: Counter Defendant Lieberman, Melissa <i>[56] Notice of Non-Opposition to Defendant Underwood Partner's Motion to Consolidate</i>
03/14/2014	 Notice of Withdrawal of Attorney Filed by: Third Party Defendant Cogburn Law Offices <i>[57] Notice of Withdrawal of Attorney</i>
03/27/2014	 Order Granting Motion Filed By: Defendant Underwood Partners LLC <i>[58] Order Granting Defendant Underwood Partners, LLC's Motion to Consolidate</i>
06/26/2015	 Notice of Early Case Conference <i>[59] Notice of NRCP 16.1 Early Case Conference</i>
08/26/2015	 Initial Appearance Fee Disclosure Filed By: Third Party Defendant Lawyers Title of Nevada Inc <i>[61] Initial Appearance Fee Disclosure</i>
08/26/2015	 Motion to Dismiss Filed By: Third Party Defendant Lawyers Title of Nevada Inc <i>[60] Third-Party Defendant Lawyers Title of Nevada, Inc.'s Motion to Dismiss</i>
08/26/2015	 Notice of Change of Hearing <i>[62] Notice of Change of Hearing</i>
09/16/2015	 Notice of Non Opposition Filed By: Third Party Defendant Lawyers Title of Nevada Inc <i>[63] Notice of Non-Opposition to Third Party Defendant Lawyers Title of Nevada, Inc.'s Motion to Dismiss</i>
10/18/2015	 Notice of Non Opposition Filed By: Defendant Mediera Canyon Community Association <i>[64] Notice Of Non-Opposition To Lawyers Title's Motion To Dismiss</i>
11/04/2015	 Order Granting Motion Filed By: Third Party Defendant Lawyers Title of Nevada Inc <i>[65] Order Granting Third-Party Defendant Lawyers Title of Nevada, Inc.'s Motion to Dismiss</i>
11/12/2015	 Notice of Entry of Order Filed By: Third Party Defendant Lawyers Title of Nevada Inc <i>[66] Notice of Entry of Order</i>
05/17/2016	 Motion for Summary Judgment

CASE SUMMARY

CASE NO. A-13-685203-C

Filed By: Cross Claimant NV Eagles LLC

[67] Defendant NV Eagles, LLC's Motion for Summary Judgment Against Plaintiff Melissa Lieberman and Crossclaimant Bank of America, N.A.

05/24/2016



Notice of Early Case Conference

Filed By: Cross Claimant NV Eagles LLC

[68] Notice of NRCP 16.1 Early Case Conference

06/03/2016



Countermotion For Summary Judgment

Filed By: Cross Defendant Bank of America NA

[69] Defendant Bank Of America, N.A.'S Opposition To NV Eagles, LLC's Motion For Summary Judgment And Countermotion For Summary Judgment

06/20/2016



Reply to Motion

Filed By: Cross Claimant NV Eagles LLC

[70] Defendant NV Eagles, LLC's Reply to Bank of America, N.A.'s Opposition to Motion for Summary Judgment and Opposition to Bank of America, N.A.'s Countermotion for Summary Judgment

07/07/2016



Reply in Support

Filed By: Cross Defendant Bank of America NA

[71] Defendant Bank of America, N.A.'s Reply in Support of its Countermotion for Summary Judgment

08/12/2016



Supplemental

Filed by: Defendant Underwood Partners LLC

[72] Defendant NV Eagles, LLC's Supplemental Reply to Bank of America, N.A.'s Opposition to Motion for Summary Judgment

08/22/2016



Supplemental

Filed by: Cross Defendant Bank of America NA

[73] Defendant Bank of America, N.A.' Notice of Supplemental Authority in Support of its Countermotion for Summary Judgment and Opposition to NV Eagles, LLC's Motion for Summary Judgment

10/25/2016



Order Denying Motion

Filed By: Defendant Underwood Partners LLC

[74] Order Denying Defendant NV Eagles, LLC's Motion for Summary Judgment and Order Denying Defendant Bank of America, N.A.'s Countermotion or Summary Judgment

08/10/2017



Order to Statistically Close Case

[75] Civil Order to Statistically Close Case

08/10/2017



Order to Statistically Close Case

[76] Civil Order to Statistically Close Case

08/22/2017



Request

Filed by: Cross Defendant Bank of America NA

[77] Request To Re-Open Case

08/23/2017



Errata

Filed By: Cross Defendant Bank of America NA

[78] Bank Of America, N.A. S Errata To Motion To Set Trial

12/01/2017



Motion

CASE SUMMARY

CASE NO. A-13-685203-C

	<p>Filed By: Cross Defendant Bank of America NA <i>[79] Bank of America, N.A.'s Motion to Re-Open Case</i></p>
12/26/2017	<p> Notice of Change of Address Filed By: Cross Defendant Bank of America NA <i>[80] Notice Of Change Of Address</i></p>
01/09/2018	<p> Notice <i>[81] Notice of Completion of NRED Mediation</i></p>
01/17/2018	<p> Order Granting Motion Filed By: Cross Defendant Bank of America NA <i>[82] Order Granting Motion to Re-Open Case</i></p>
01/23/2018	<p> Notice of Entry of Order Filed By: Cross Defendant Bank of America NA <i>[83] Notice of Entry of Order Granting Motion to Re-Open Case</i></p>
01/31/2018	<p> Substitution of Attorney Filed by: Cross Claimant NV Eagles LLC <i>[84] Substitution Of Attorneys</i></p>
06/28/2018	<p> Motion to Set Trial Date Filed By: Cross Defendant Bank of America NA <i>[85] Bank Of America, N.A. S Renewed Motion To Set Trial</i></p>
08/13/2018	<p> Order Setting Civil Non-Jury Trial and Calendar Call <i>[86] Order Setting Civil Non-Jury Trial, Pre-Trial/Calendar Call</i></p>
11/21/2018	<p> Notice of Voluntary Dismissal Without Prejudice <i>[87] Notice of Voluntary Dismissal of Plaintiff's Claims against Defendant Resurgent Services, LP, Only, without Prejudice</i></p>
12/04/2018	<p> Motion to Withdraw As Counsel <i>[88] Motion to Withdraw as Attorneys of Record for Plaintiff, Melissa Lieberman</i></p>
12/20/2018	<p> Order Setting Civil Non-Jury Trial and Calendar Call <i>[89] Order Setting Civil Non-Jury Trial, Pre-Trial / Calendar Call</i></p>
12/21/2018	<p> Stipulation and Order <i>[90] Stipulation and Order to Extend the Five Year Rule</i></p>
01/03/2019	<p> Notice of Entry of Order <i>[91] Notice of Entry of Order</i></p>
01/09/2019	<p> Order Granting Motion <i>[92] Order Granting Motion to Withdraw as Counsel for Plaintiff Melissa Lieberman</i></p>
01/09/2019	<p> Notice of Entry of Order <i>[93] Notice of Entry of Order</i></p>
05/24/2019	<p> Order Setting Civil Non-Jury Trial and Calendar Call <i>[94] Order Setting Civil Non-Jury Trial, Pre-Trial/Calendar Call</i></p>

CASE SUMMARY

CASE NO. A-13-685203-C

07/03/2019	 Order Filed By: Cross Defendant Bank of America NA <i>[95] Order Allowing Quiet Title and Declaratory Relief Claims</i>
07/08/2019	 Notice of Entry <i>[96] Notice of Entry of Order Allowing Quiet Title and Declaratory Relief Claims</i>
07/12/2019	 Crossclaim Filed By: Cross Defendant Bank of America NA <i>[97] Cross-Claim against NV Eagles, LLC</i>
07/15/2019	 Crossclaim Filed By: Cross Claimant NV Eagles LLC <i>[98] Cross-Claim Against Bank Of America, N.A. And The Bank Of New York Mellon Fka The Bank Of New York, As Trustee For The Certificate-Holders Of CWALT, Inc., Alternative Loan Trust 2006-J-8, Mortgage Pass-Through Certificates, Series 2006-J-8</i>
07/30/2019	 Answer to Crossclaim Filed By: Cross Defendant Bank of America NA <i>[99] Bank Of America, N.A.'S Answer To NV Eagles, LLC's Cross-Claims</i>
07/30/2019	 Answer to Crossclaim Filed By: Cross Defendant Bank of New York Mellon <i>[100] The Bank Of New York Mellon, as Trustee's Answer To NV Eagles, LLC's Cross-Claims</i>
09/25/2019	 Pre-trial Memorandum Filed by: Cross Defendant Bank of New York Mellon <i>[101] Individual Pre-Trial Memorandum</i>
10/09/2019	 Order Setting Civil Non-Jury Trial and Calendar Call <i>[102] Order Setting Civil Non-Jury Trial, Pre-Trial/Calendar Call</i>
11/06/2019	 Order Setting Civil Non-Jury Trial and Calendar Call <i>[103] Order Setting Civil Non-Jury Trial, Pre-Trial/Calendar Call</i>
12/27/2019	 Stipulation Filed by: Cross Defendant Bank of America NA; Cross Defendant Bank of New York Mellon <i>[104] Stipulated Facts for Trial</i>
12/31/2019	 Stipulation and Order Filed by: Cross Defendant Bank of America NA; Cross Defendant Bank of New York Mellon <i>[105] Stipulation and Order to Extend Five-Year Rule</i>
12/31/2019	 Notice of Entry of Stipulation and Order Filed By: Cross Defendant Bank of America NA; Cross Defendant Bank of New York Mellon <i>[106] Notice of Entry of Stipulation and Order to Extend Five Year Rule</i>
01/14/2020	 Motion for Judgment Filed By: Cross Claimant NV Eagles LLC <i>[107] NV Eagles, LLC.'s Motion For Judgment As A Matter Of Law Pursuant To NRCP Rule</i>

CASE SUMMARY

CASE NO. A-13-685203-C

50

01/15/2020	 Opposition to Motion Filed By: Cross Defendant Bank of America NA <i>[108] Bank Of America And The Bank Of New York Mellon, As Trustee's Opposition To Nv Eagles' Rule 50 Motion</i>
01/15/2020	 Trial Brief Filed By: Cross Defendant Bank of America NA; Cross Defendant Bank of New York Mellon <i>[109] Bank of America and The Bank of New York Mellon, as Trustee's Trial Brief</i>
01/15/2020	 Clerk's Notice of Nonconforming Document <i>[110] Clerk's Notice of Nonconforming Document</i>
01/28/2020	 Trial Brief Filed By: Cross Claimant NV Eagles LLC <i>[111] NV Eagles, LLC's Post Trial Brief</i>
02/03/2020	 Receipt of Copy Filed by: Cross Claimant NV Eagles LLC <i>[112] Receipt Of Copy</i>
02/26/2020	 Recorders Transcript of Hearing <i>[113] Recorders Transcript of Hearing Re: Bench Trial Day 3, Decision, February 5, 2020</i>
03/24/2020	 Recorders Transcript of Hearing <i>[114] Recorders Transcript of Hearing Re: Bench Trial Day 1, January 14, 2020</i>
03/24/2020	 Recorders Transcript of Hearing <i>[115] Recorders Transcript of Hearing Re: Bench Trial Day 2, January 15, 2020</i>
04/30/2020	 Findings of Fact, Conclusions of Law and Judgment <i>[116] Findings of Fact, Conclusions of Law and Judgment</i>
04/30/2020	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Cross Claimant NV Eagles LLC <i>[117] Notice Of Entry Of Findings Of Facts, Conclusions Of Law And Judgment</i>
05/27/2020	 Notice of Appeal Filed By: Cross Defendant Bank of America NA <i>[118] Bank of America and The Bank of New York Mellon, as Trustee's Notice of Appeal</i>
05/27/2020	 Case Appeal Statement Filed By: Cross Defendant Bank of America NA; Cross Defendant Bank of New York Mellon <i>[119] Bank of America and The Bank of New York Mellon, as Trustee's Case Appeal Statement</i>
06/09/2020	 Notice of Posting Bond Filed By: Cross Defendant Bank of America NA <i>[120] Notice of Posting of Bond on Appeal</i>
01/04/2021	Case Reassigned to Department 29 <i>Judicial Reassignment to Judge David M. Jones</i>

CASE SUMMARY

CASE NO. A-13-685203-C

02/06/2021	 Order to Statistically Close Case <i>[121] CIVIL ORDER TO STATISTICALLY CLOSE CASE</i>
07/12/2021	 Substitution of Attorney Filed by: Cross Claimant NV Eagles LLC <i>[122] Substitution of Attorneys</i>
12/01/2021	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>[123] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Vacated and Remand; Rehearing Denied; Petition Denied</i>
12/10/2021	 Order Scheduling Status Check <i>[38] Order Scheduling Status Check: Appeal</i>
01/21/2022	 Brief Filed By: Cross Claimant NV Eagles LLC <i>[125] Defendant/Counterclaimant NV Eagles, LLC's Post-Remand Points and Authorities Regarding Futility Defense</i>
01/21/2022	 Supplemental Brief Filed By: Cross Defendant Bank of America NA; Cross Defendant Bank of New York Mellon <i>[126] Bank of America, N.A. and The Bank of New York Mellon, as Trustee's Supplemental Brief Regarding Perla Trust</i>
02/01/2022	 Order <i>[127] Order Regarding Appeal Bond</i>
02/02/2022	 Notice of Entry of Order Filed By: Cross Defendant Bank of America NA <i>[128] Notice of Entry of Order Regarding Appeal Bond</i>
02/04/2022	 Response Filed by: Cross Defendant Bank of America NA; Cross Defendant Bank of New York Mellon <i>[129] Bank of America, N.A. and the Bank of New York Mellon, as Trustee's Response to NV Eagles, LLC's Post-Remand Points and Authorities</i>
02/04/2022	 Response Filed by: Cross Claimant NV Eagles LLC <i>[130] Defendant/Counterclaimant NV Eagles, LLC s Response to Bank of America, N.A. and the Bank of New York Mellon, as Trustee s Supplemental Brief Regarding Perla Trust</i>
02/28/2022	 Order to Statistically Close Case <i>[131] Civil Order to Statistically Close Case</i>
03/11/2022	 Findings of Fact, Conclusions of Law and Order Filed By: Cross Claimant NV Eagles LLC <i>[132]Findings of Fact, Conclusions of Law and Order on Post - Remand Hearing</i>
03/11/2022	 Notice of Entry of Order Filed By: Cross Claimant NV Eagles LLC <i>[133] Notice of Entry of Order</i>

CASE SUMMARY

CASE NO. A-13-685203-C

04/08/2022



Notice of Appeal

Filed By: Cross Defendant Bank of America NA; Cross Defendant Bank of New York Mellon

[134] Bank of America, N.A. and the Bank of New York Mellon, as Trustee's Notice of Appeal

04/08/2022



Case Appeal Statement

Filed By: Cross Defendant Bank of America NA; Cross Defendant Bank of New York Mellon

[135] Bank of America, N.A. and The Bank of New York Mellon, as Trustee's Case Appeal Statement

DISPOSITIONS

10/30/2013

Order of Dismissal (Judicial Officer: Bare, Rob)

Debtors: Nevada Association Services Inc (Third Party Plaintiff)

Creditors: Pulte Mortgage LLC (Third Party Defendant)

Judgment: 10/30/2013, Docketed: 11/07/2013

01/09/2014

Order of Dismissal (Judicial Officer: Bare, Rob)

Debtors: Nevada Association Services Inc (Third Party Plaintiff)

Creditors: Cogburn Law Offices (Third Party Defendant), Norma Teran (Third Party Defendant)

Judgment: 01/09/2014, Docketed: 01/16/2014

Comment: Certain Claims

01/21/2014

Order of Dismissal (Judicial Officer: Bare, Rob)

Debtors: Melissa Lieberman (Plaintiff)

Creditors: Underwood Partners LLC (Defendant)

Judgment: 01/21/2014, Docketed: 01/28/2014

Comment: Certain Causes

02/14/2014

Order of Dismissal Without Prejudice (Judicial Officer: Bare, Rob)

Debtors: Melissa Lieberman (Plaintiff)

Creditors: Mediera Canyon Community Association (Defendant), Nevada Association Services Inc (Defendant)

Judgment: 02/14/2014, Docketed: 02/24/2014

02/14/2014

Order of Dismissal (Judicial Officer: Bare, Rob)

Debtors: Melissa Lieberman (Plaintiff)

Creditors: Mediera Canyon Community Association (Defendant), Nevada Association Services Inc (Defendant)

Judgment: 02/14/2014, Docketed: 02/24/2014

Comment: Certain Cause

11/04/2015

Order of Dismissal With Prejudice (Judicial Officer: Bare, Rob)

Debtors: Nevada Association Services Inc (Third Party Plaintiff)

Creditors: Lawyers Title of Nevada Inc (Third Party Defendant)

Judgment: 11/04/2015, Docketed: 11/16/2015

11/21/2018

Dismissal Pursuant to NRCP 41 (Judicial Officer: Bare, Rob)

Debtors: Resurgent Capital Services LP (Defendant)

Creditors: Melissa Lieberman (Plaintiff)

Judgment: 11/21/2018, Docketed: 11/21/2018

04/30/2020

Judgment (Judicial Officer: Bare, Rob)

Debtors: Melissa Lieberman (Plaintiff)

Creditors: Bank of America NA (Defendant)

Judgment: 04/30/2020, Docketed: 05/01/2020

03/11/2022

Order (Judicial Officer: Jones, David M)

CASE SUMMARY

CASE NO. A-13-685203-C

Debtors: Bank of America NA (Cross Defendant), Bank of New York Mellon (Cross Defendant)
Creditors: NV Eagles LLC (Cross Claimant)
Judgment: 03/11/2022, Docketed: 03/14/2022
Comment: Quiet Title

HEARINGS

10/17/2013



Motion to Dismiss (9:00 AM) (Judicial Officer: Bare, Rob)

Events: 08/28/2013 Motion to Dismiss

Underwood Partner's Motion to Dismiss or, in the alternative, Motion for Summary Judgment
Granted in Part; Underwood Partner's Motion to Dismiss or, in the alternative, Motion for Summary Judgment

Journal Entry Details:

COURT NOTED, it was inclined to staying everything 90 days, including discovery, to wait for a decision from the supreme court. Mr. Ball stated he and Mr. Shevorski had orally stipulated to hold all arguments related to Bank of America, Bank of New York Mellon, and the recorded lien against the property could be stayed. Further, Mr. Ball stated the issue with the Plaintiff was separate and requested the ownership interest of the property be determined. Upon Court's inquiry, Mr. Cogburn agreed to leave the quiet title action and dismiss the unfair trade practices and abuse practices claim. Mr. Cogburn argued parts of NRS 107 were not exclusive; inquiring as to which statute the HOA should follow to foreclose. Argument by Mr. Vilkin regarding whether the wrongful foreclosure should be stayed as to his client and whether this case should be in arbitration. Following further arguments by counsel, COURT ORDERED, Motion to Dismiss GRANTED as to Deceptive unfair trade practices and abuse of process; DENIED as to Quiet Title. COURT FURTHER ORDERED, the matter noted by Mr. Vilkin would remain open; all other actions and discovery are STAYED. COURT NOTED the Motion to Dismiss as to the third party complaint will stand. Mr. Ball to prepare the Order and provide to counsel prior to submitting to the Court.;

12/10/2013



Motion to Dismiss (9:00 AM) (Judicial Officer: Bare, Rob)

Events: 10/03/2013 Motion to Dismiss

Third Party Defendants' Motion to Dismiss Third Party Complaint by Nevada Association Services, Inc. Pursuant to Nev. R. Civ. P. 12(b)(5) and Countermotion for Sanctions Pursuant to N.R.S. 7.085.

Granted;

Journal Entry Details:

Court presented an overview in regard to the Third Party Complaint. Arguments by counsel in support of Motion to Dismiss Third Party Complaint by Nevada Association Services, Inc.; arguments in opposition thereto. Letter submitted by Mr. Vilkin to be made a part of the record. Colloquy regarding law in regard to relationship between lawyer and client. Court stated its findings, and ORDERED, Third Party Defendants' Motion to Dismiss Third Party Complaint by Nevada Association Services, Inc., GRANTED. In regard to Countermotion for Sanctions, COURT ORDERED, Countermotion DENIED. Upon inquiry of Mr. Vilkin, Court confirmed the Interpleader cause of action within the Third Party Complaint is not dismissed. Mr. Lagomarsino to prepare the Order and circulate with counsel. ;

01/09/2014



Motion to Dismiss (9:00 AM) (Judicial Officer: Bare, Rob)

01/09/2014, 01/23/2014

Defendant Nevada Association Services, Inc.'s Motion To Dismiss Plaintiff's Complaint And For Attorney's Fees And Costs

Continued;

Granted;

Journal Entry Details:

Court presented an overview of the case in regard to the purchase of property, the deficiency in HOA fees, the foreclosure sale to Underwood Partners, and Defendant's Motion to Dismiss the case in its entirety. Colloquy regarding McKnight as to quiet title actions per case law and if wrongful foreclosure issues should be arbitrated. Arguments by counsel as to quiet title actions being exempt from arbitration; opposition thereto. COURT ORDERED, Defendant Nevada Association Services, Inc.'s Motion to Dismiss Plaintiff's Complaint and for Attorney's Fees and Costs, GRANTED. Mr. Vilkin to prepare the Order. ;

Continued;

Granted;

Journal Entry Details:

CASE SUMMARY

CASE NO. A-13-685203-C

Court noted Plaintiff's counsel not present. COURT ORDERED, matter CONTINUED. If Plaintiff's counsel not present at next court hearing, matter will proceed. 1/23/14 9:00 AM - Defendant Nevada Association Services, Inc.'s Motion to Dismiss Plaintiff's complaint And For Attorney's Fees and Costs... CONTINUED CLERK'S NOTE: A copy of this Minute Order to be placed in the attorney folder(s) of: Jamie S. Cobgurn (Cogburn Law Offcs). ;

03/18/2014



Minute Order (3:00 AM) (Judicial Officer: Bare, Rob)

Minute Order - No Hearing Held;

Journal Entry Details:

DECISION: Defendant's Motion to Consolidate Having examined the Motions, noting the notice of non-Opposition on file, and good cause appearing, Defendant's Motion to Consolidate is GRANTED. Consolidation is appropriate as the two cases deal with title to the same property. Case A-12-690944-C shall be consolidated with the lower numbered case, A-13-685203-C. The hearing on this matter set for March 25, 2014 is hereby VACATED. Counsel for moving party to prepare and submit proposed order to chambers within 10 days of entry of the minute order. CLERK'S NOTE: A copy of this Minute Order to be placed in the attorney folder(s) of: John Henry Wright (Wright Law Group), Jamie S. Cogburn (Cogburn Law Offcs), Ariel E. Stern (Akerman Senterfitt), Richard J. Vilkin, Esq., and Joseph P. Hardy (Gordon & Rees). ;

03/25/2014

CANCELED Motion to Consolidate (9:00 AM) (Judicial Officer: Bare, Rob)

Vacated - per Law Clerk

Defendant Underwood Partners, LLC's Motion to Consolidate

10/20/2015



Minute Order (1:10 PM) (Judicial Officer: Bare, Rob)

Minute Order Re: Third Party Defendant Lawyers Title of Nevada's Motion to Dismiss

Minute Order - No Hearing Held;

Journal Entry Details:

Having examined the Motion to Dismiss, noting the Notice of Non-Opposition filed, and good cause appearing, the Motion to Dismiss is GRANTED. Pursuant to EDCR 2.23, the hearing on this matter set for October 27, 2015, is advanced and VACATED. Moving party to prepare and submit proposed order to chambers within 10 days. CLERK'S NOTE: The above minute order has been distributed to: Jamie Cogburn Esq. (jsc@cogburnlaw.com) Ariel Stern Esq. (ariel.stern@akerman.com) David Gutke Esq. (dgutke@swlaw.com) John Wirght Esq. (john@wrightlawgrounv.com) Christina Wang Esq. (christina.wang@fnf.com) Richard Vilkin Esq. (richard@vilkinlaw.com) ;

10/27/2015

CANCELED Motion to Dismiss (10:30 AM) (Judicial Officer: Bare, Rob)

Vacated - per Law Clerk

Third-Party Defendant Lawyers Title of Nevada, Inc.'s Motion to Dismiss

07/07/2016



Minute Order (3:00 AM) (Judicial Officer: Bare, Rob)

Minute Order - No Hearing Held;

Journal Entry Details:

At the request of Court, for judicial economy, the Defendant NV Eagles, LLC's Motion for Summary Judgment Against Plaintiff Melissa Lieberman and Crossclaimant Bank of America, N.A. and the Defendant Bank Of America, N.A.'S Opposition To NV Eagles, LLC's Motion For Summary Judgment And Countermotion For Summary Judgment currently scheduled for July 14, 2016 is RESCHEDULED to August 11, 2016 9 a.m. CLERK'S NOTE: Counsel is to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the following parties via Wiznet E-Service: Akerman Las Vegas Office akermanlas@akerman.com, Ariel E. Stern, Esq. ariel.stern@akerman.com, Elizabeth Streible elizabeth.streible@akerman.com, Rebekkah Bodoff rebekkah.bodoff@akerman.com, Jamie Cogburn jsc@cogburnlaw.com, Lisa Catanzaro lcatanzaro@cogburnlaw.com, Wiznet Filing wiznet@cogburnlaw.com, Lo Mercado lmercado@cogburnlaw.com, David Gluth dgluth@gordonrees.com, Gayle Angulo gangulo@gordonrees.com, Marie Ogella mogella@gordonrees.com, Robert Larsen rlarsen@gordonrees.com, Dayana dayana@wrightlawgrounv.com (7/7/16 amn). ;

08/11/2016

Motion for Summary Judgment (9:00 AM) (Judicial Officer: Bare, Rob)

08/11/2016, 08/18/2016

Defendant NV Eagles, LLC's Motion for Summary Judgment Against Plaintiff Melissa

CASE SUMMARY

CASE NO. A-13-685203-C

Lieberman and Crossclaimant Bank of America, N.A.

Continued;

Decision Pending;

Continued;

Decision Pending;

08/11/2016

Opposition and Countermotion (9:00 AM) (Judicial Officer: Bare, Rob)

08/11/2016, 08/18/2016

Defendant Bank Of America, N.A.'S Opposition To NV Eagles, LLC's Motion For Summary Judgment And Countermotion For Summary Judgment

Continued;

Decision Pending;

Continued;

Decision Pending;

08/11/2016



All Pending Motions (9:00 AM) (Judicial Officer: Bare, Rob)

Minute Order - No Hearing Held;

Journal Entry Details:

DEFENDANT NV EAGLES, LLC'S MOTION FOR SUMMARY JUDGMENT AGAINST PLAINTIFF MELISSA LIEBERMAN AND CROSS CLAIMANT BANK OF AMERICA, N.A. DEFENDANT BANK OF AMERICA, N.A.'S OPPOSITION TO NV EAGLES, LLC'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT Mr. Wright checked in; however, was NOT PRESENT when the case was called. Mr. Brenner stated there were some matter's worth mentioning; however, since opposing counsel wasn't present, requested the matter be trailed or continued for Mr. Wright's presence. Matters TRAILED for opposing counsel's presence. Matters RECALLED. Same party present. COURT ORDERED, matters CONTINUED for Mr. Wright's presence. CONTINUED TO: 8/18/16 9:00 AM;

08/18/2016



All Pending Motions (9:00 AM) (Judicial Officer: Bare, Rob)

Matter Heard;

Journal Entry Details:

DEFENDANT BANK OF AMERICA, N.A.'S OPPOSITION TO NV EAGLES, LLC'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT DEFENDANT NV EAGLES, LLC'S MOTION FOR SUMMARY JUDGMENT AGAINST PLAINTIFF MELISSA LIEBERMAN AND CROSSCLAIMANT BANK OF AMERICA, N.A. Court provided a procedural overview of the case; noting a new decision had issued. Mr. Brenner argued regarding the 9th Circuit decision indicating the statutes were unconstitutional under the 14th Amendment of the Constitution; advised this matter was briefed under the Shadow Wood decision but there is now the Stone Hollow decision. Argument by Mr. Wright regarding the Stone Hollow decision, regarding the letter that was meant to represent the maximum amount the HOA could collect, which wasn't true, as they could collect the rest of the lien. Colloquy regarding who was to decide whether a valid or true tender was rendered. Argument by Mr. Wright regarding the facts contained in the letter, the legal effect of the letter, the issue of whether Chapter 116 required notice to the banks and whether there was due process up until that point. Further, Mr. Wright requested the motions be continued 60-90 days, as there was more discovery to conduct, and there wasn't a factual dispute. Mr. Brenner agreed that whether the letter exposed something improper was for the Court to decide; however, argued that the case should be decided at least on the tender matter. COURT ORDERED, matters CONTINUED for chambers decision to issue today or tomorrow.;

08/24/2016



Decision (3:00 AM) (Judicial Officer: Bare, Rob)

Court's Decision Re: Status of Pending Motions

MINUTES

Continued;

decision issued 9/9

Journal Entry Details:

As the Decision on the Motion for Summary Judgment has not yet been issued, COURT ORDERED the Court's Decision Re: Status of Pending Motions currently set for August 24, 2016, shall be CONTINUED to September 14, 2016, in Chambers. Parties need not appear at the next Court date. 9/14/16 (CHAMBERS) - DECISION ON THE MOTION FOR SUMMARY

CASE SUMMARY

CASE NO. A-13-685203-C

JUDGMENT CLERK'S NOTE: Counsel is to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the following parties via Wiznet E-Service: Akerman Las Vegas Office akermanlas@akerman.com, Ariel E. Stern, Esq. ariel.stern@akerman.com, Elizabeth Streible elizabeth.streible@akerman.com, Rebekkah Bodoff rebekkah.bodoff@akerman.com, Jamie Cogburn jsc@cogburnlaw.com, Lisa Catanzaro lcatanzaro@cogburnlaw.com, Wiznet Filing wiznet@cogburnlaw.com, Lo Mercado lmercado@cogburnlaw.com, David Gluth dgluth@gordonrees.com, Gayle Angulo gangulo@gordonrees.com, Marie Ogella mogella@gordonrees.com, Robert Larsen rlarsen@gordonrees.com, Dayana dayana@wrightlawgroupnv.com (9/6/16 amn).;

SCHEDULED HEARINGS



Status Check (11/09/2016 at 3:00 AM) (Judicial Officer: Bare, Rob)

Status Check: Order

09/09/2016



Minute Order (3:00 AM) (Judicial Officer: Bare, Rob)

Minute Order - No Hearing Held;

Journal Entry Details:

This matter came before this Court on August 18, 2016. After carefully considering the papers submitted and hearing arguments, Court issued its Decision this 6th day of September, 2016. COURT ORDERED, both Defendant NV Eagles, LLC's Motion for Summary Judgment and Defendant Bank of America's Countermotion for Summary Judgment are DENIED. Summary judgment is appropriate under NRCP 56 when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law. Wood v. Safeway, Inc., 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party. Id. at 731, 121 P.3d at 1031. In this case, there is a genuine issue of material fact as to whether there was a proper tender by the Bank, if that amount was the super-priority amount, and if the HOA acted properly in rejecting the attempted tender. On April 1, 2011, Defendant Bank of America sent a check in the amount of \$486.00 to the HOA, which was rejected because the HOA contended that the lien was not paid in full. Additionally, there is a genuine issue of material fact as to whether Defendant NV Eagles is an innocent bona fide purchaser. [S]ubsequent purchaser is bona fide ... if it takes the property 'for a valuable consideration and without notice of the prior equity, and without notice of facts which upon diligent inquiry would be indicated and from which notice would be imputed to him, if he failed to make such inquiry.' Shadow Wood HOA v. N.Y. Cmty. Bancorp., 132 Nev. Adv. Op. 5, 366 P.3d 1105, 1115 (2016) (citing Bailey v. Butner, 64 Nev. 1, 19, 176 P.2d 226, 234 (1947)). Defendant Bank of America asserts that Defendant NV Eagles had inquiry notice of the Bank's super-priority tender, and that Defendant NV Eagles is therefore not a bona fide purchaser. Therefore, summary judgment is not appropriate and the motion and countermotion are both denied. Counsel for Plaintiff is directed to submit a proposed Order consistent with this Minute Order, the submitted motions, and oral arguments. Counsel to provide a proposed Order to this Court in accordance with EDCR 7.21. A Status Check Re: Order is set for November 9, 2016 in chambers. Parties need not appear. 11/9/16 (CHAMBERS) - STAU CHECK: ORDER CLERK'S NOTE: Counsel is to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the following parties via Wiznet E-Service: Akerman Las Vegas Office akermanlas@akerman.com, Ariel E. Stern, Esq. ariel.stern@akerman.com, Elizabeth Streible elizabeth.streible@akerman.com, Rebekkah Bodoff rebekkah.bodoff@akerman.com, Jamie Cogburn jsc@cogburnlaw.com, Wiznet Filing wiznet@cogburnlaw.com, Lo Mercado lmercado@cogburnlaw.com, David Gluth dgluth@gordonrees.com, Gayle Angulo gangulo@gordonrees.com, Marie Ogella mogella@gordonrees.com, Robert Larsen rlarsen@gordonrees.com, Dayana dayana@wrightlawgroupnv.com (9/9/16 amn). ;

11/09/2016



Status Check (3:00 AM) (Judicial Officer: Bare, Rob)

Status Check: Order

Off Calendar;

Journal Entry Details:

As the Order has been provided, COURT ORDERED, OFF CALENDAR.;





12/28/2017



Minute Order (8:00 AM) (Judicial Officer: Bare, Rob)

CASE SUMMARY






CASE NO. A-13-685203-C

	<p>Minute Order - No Hearing Held; Journal Entry Details: <i>Having examined the Motion to Re-Open Case, noting no Opposition filed, and good cause appearing, the Motion to Re-Open is GRANTED. Pursuant to EDCR 2.23, the hearing on this matter set for January 9, 2018, are advanced and VACATED. Moving party to prepare and submit proposed order to chambers within 10 days. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Denise Duron, to all registered parties for Odyssey File & Serve. (dd-12/28/17) ;</i></p>
01/09/2018	<p>CANCELED Motion (9:30 AM) (Judicial Officer: Bare, Rob) <i>Vacated</i> <i>Bank of America, N.A.'s Motion to Re-Open Case</i></p>
08/07/2018	<p>CANCELED Motion to Set Trial Date (11:00 AM) (Judicial Officer: Bare, Rob) <i>Vacated - per Law Clerk</i> <i>Bank Of America, N.A. S Renewed Motion To Set Trial</i></p>
08/07/2018	<p> Minute Order (11:00 AM) (Judicial Officer: Bare, Rob) Minute Order - No Hearing Held; Journal Entry Details: <i>Having examined the Motion to Set Trial, noting no Opposition filed, and good cause appearing, the Motion to Set Trial is GRANTED. Pursuant to EDCR 2.23, the hearing on this matter set for August 28, 2018, is advanced and VACATED. This matter will be set on this Court s January 7, 2019 trial stack. The Court will issue a Trial Setting Order to that effect. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Kory Schlitz, to all registered parties for Odyssey File and Serve. (8/7/18);</i></p>
12/13/2018	<p> Pretrial/Calendar Call (11:00 AM) (Judicial Officer: Bare, Rob) Trial Date Set; Journal Entry Details: <i>As there were no other settings available within this stack, COURT ADVISED, the trial would have to be reset on another stack. Mr. Hong stated he had conducted some calculations and the five year rule would run next week; therefore, requested the Court allow the parties to submit a stipulation and order to extend the five years. COURT ADVISED it was amenable to that request. Mr. Garner and Mr. Cogburn so agreed. Mr. Hong to prepare the stipulation and order and submit to court. Mr. Cogburn requested the jury trial be reset on the May stack. COURT SO ORDERED, jury trial VACATED and RESET on the May/2019 stack. Order Setting Civil Jury Trial, Pre Trial / Calendar call to issue. 5/9/19 - 11:00 AM - PRETRIAL / CALENDAR CALL 5/28/19 - 9:00 AM - JURY BENCH TRIAL (STACK);</i></p>
01/07/2019	<p>CANCELED Jury Trial (9:00 AM) (Judicial Officer: Bare, Rob) <i>Vacated</i></p>
01/24/2019	<p>CANCELED Motion to Withdraw as Counsel (9:30 AM) (Judicial Officer: Bare, Rob) <i>Vacated - per Judge</i> <i>Motion to Withdraw as Counsel of Record for Plaintiff Melissa Lieberman</i></p>
05/09/2019	<p> Pretrial/Calendar Call (11:00 AM) (Judicial Officer: Bare, Rob) Matter Heard; Journal Entry Details: <i>Mr. Hong indicated the matter was not ready for this stack. Counsel agreed to move to another stack and agreed to amend to assert declaratory quiet tile cross claims. Upon Court's inquiry Mr. Brenner advised the five year rule runs 12/19/19 so parties requested the trial be moved to a date before December. COURT ORDERED, trial VACATED and RESET; Court to issue a new trial order. 9/26/19 11:00 AM PRETRIAL/COURT CALL 10/14/19 9:00 AM BENCH TRIAL;</i></p>
05/28/2019	<p>CANCELED Bench Trial (1:30 PM) (Judicial Officer: Bare, Rob) <i>Vacated</i></p>
09/26/2019	<p> Pretrial/Calendar Call (11:00 AM) (Judicial Officer: Bare, Rob)</p>

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY




CASE NO. A-13-685203-C

	<p>Vacated and Reset; Journal Entry Details: <i>Joseph Hong not present. Mr. Brenner stated there is a five year rule issue in this case and that the availability of one of his witnesses is an issue as well. COURT ORDERED, trial date VACATED and RESET. 11/21/19 1:00 PM BENCH TRIAL;</i></p>
10/14/2019	<p>CANCELED Bench Trial (9:00 AM) (Judicial Officer: Bare, Rob) <i>Vacated</i></p>
10/21/2019	<p>CANCELED Bench Trial (1:00 PM) (Judicial Officer: Bare, Rob) <i>Vacated - On in Error</i></p>
10/31/2019	<p> Pretrial/Calendar Call (11:00 AM) (Judicial Officer: Bare, Rob) Trial Date Set; Journal Entry Details: <i>Mr. Garner stated Mr. Hong contacted him, advised he could not make it and have matter reset where it can go. Colloquy. Mr. Garner stated he may have an issue with Mr. Young being available. Further colloquy. COURT ORDERED, trial date VACATED and RESET. 1/14/20 1:00 PM BENCH TRIAL - FIRM;</i></p>
11/21/2019	<p>CANCELED Bench Trial (1:00 PM) (Judicial Officer: Bare, Rob) <i>Vacated - per Judge</i></p>
12/19/2019	<p> Pretrial/Calendar Call (11:00 AM) (Judicial Officer: Bare, Rob) Trial Date Set; Journal Entry Details: <i>Counsel announced ready and estimated two days for trial. COURT ORDERED, trial date STANDS. 1/14/20 1:00 PM BENCH TRIAL (FIRM);</i></p>
01/14/2020	<p> Bench Trial - FIRM (1:00 PM) (Judicial Officer: Bare, Rob) 01/14/2020-01/15/2020 Trial Continues; Decision Made; Journal Entry Details: <i>Court advised it was in receipt of the Motion for Judgment As A Matter Of Law Pursuant To NRCP Rule 50 filed by Mr. Hong. Testimony and exhibits presented (See worksheets.) Closing arguments by Mr. Hong and Mr. Garner. Court advised the decision on the Motion for Judgment would be pending to allow the Court to review Mr. Garner's Trial Brief and case citation, and ORDERED, matter UNDER ADVISEMENT. COURT FURTHER ORDERED supplemental briefing due on 01/29/2020 by 5:00 pm and matter SET for Decision with no further argument from counsel. 02/05/2020 11:00 AM DECISION ;</i> Trial Continues; Decision Made; Journal Entry Details: <i>Opening Statements by Mr Hong. Mr. Hong made an Oral Motion for a Directed Verdict. Upon Court's inquiry, counsel agreed to prepare and file supplemental briefings based on Mr. Hong's Oral Motion for a Directed Verdict by the end of the day. Opening Statement by Mr. Garner. Testimony and exhibits presented. (See worksheets). COURT ORDERED, matter CONTINUED. Evening Recess. CONTINUED TO: 01/15/2020 9:00 AM;</i></p>
02/05/2020	<p> Decision (11:00 AM) (Judicial Officer: Bare, Rob) Decision Made; Journal Entry Details: <i>COURT ORDERED, NV Eagles, LLC's Motion For Judgment As A Matter Of Law Pursuant to NRCP Rule 50 DENIED. As to the Bench Trial, Court stated Findings in favor of the Plaintiff. Mr. Hong to prepare the Order and circulate it to Mr. Garner for review as to form and content. ;</i></p>
12/15/2021	<p> Status Check (9:00 AM) (Judicial Officer: Jones, David M)</p>
	<p>MINUTES</p>

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-13-685203-C

	<p>Hearing Set; Journal Entry Details: <i>At the request of parties, COURT ORDERED, briefing schedule SET as follows: briefing due 1/21/22, reply due 2/4/22. FURTHER, matter SET for hearing. 2/10/22 9:00 AM HEARING;</i></p> <p>SCHEDULED HEARINGS</p> <p> Hearing (02/10/2022 at 9:00 AM) (Judicial Officer: Jones, David M)</p>
02/10/2022	<p> Hearing (9:00 AM) (Judicial Officer: Jones, David M)</p> <p>MINUTES Matter Heard; Journal Entry Details: <i>Following arguments by counsel, COURT ORDERED, matter taken UNDER ADVISEMENT.;</i></p>
02/14/2022	<p> Minute Order (3:00 AM) (Judicial Officer: Jones, David M)</p> <p>Minute Order - No Hearing Held; Journal Entry Details: <i>Order Regarding Supplemental Briefing After further consideration of the filed papers and oral arguments, the Court hereby finds in favor of Nevada Association Services. The attempted tender in this situation was never for the correct amount, so even by Bank of America's definition of a tender there was never a valid tender. Counsel for Nevada Association Services to prepare the order. CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /mt;</i></p>

DATE

FINANCIAL INFORMATION

Third Party Defendant Lawyers Title of Nevada Inc	
Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 4/12/2022	0.00
Cross Claimant NV Eagles LLC	
Total Charges	423.00
Total Payments and Credits	423.00
Balance Due as of 4/12/2022	0.00
Third Party Plaintiff Nevada Association Services Inc	
Total Charges	358.00
Total Payments and Credits	358.00
Balance Due as of 4/12/2022	0.00
Cross Defendant Bank of America NA	
Total Charges	471.00
Total Payments and Credits	471.00
Balance Due as of 4/12/2022	0.00
Defendant Mediera Canyon Community Association	
Total Charges	233.50
Total Payments and Credits	233.50
Balance Due as of 4/12/2022	0.00
Defendant Underwood Partners LLC	
Total Charges	423.00
Total Payments and Credits	423.00
Balance Due as of 4/12/2022	0.00
Counter Defendant Lieberman, Melissa	
Total Charges	270.00
Total Payments and Credits	270.00
Balance Due as of 4/12/2022	0.00
Cross Defendant Bank of New York Mellon	

CASE SUMMARY

CASE NO. A-13-685203-C

Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 4/12/2022	0.00
 Third Party Plaintiff Nevada Association Services Inc Interplead Funds Balance as of 4/12/2022	 21,392.36
 Cross Defendant Bank of America NA Appeal Bond Balance as of 4/12/2022	 500.00
 Cross Defendant Bank of America NA Appeal Bond Balance as of 4/12/2022	 500.00

CIVIL COVER SHEET A - 13 - 685203 - C

County, Nevada

XXXII

Case No. _____
(Assigned by Clerk's Office)**I. Party Information**

Plaintiff(s) (name/address/phone):

Melissa Lieberman

Attorney (name/address/phone):

Cogburn Law Offices

2879 St. Rose Parkway, Suite 200

Henderson, Nevada 89052

Defendant(s) (name/address/phone):

Mediera Canyon Community Association, et al.

Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input checked="" type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence - Auto <input type="checkbox"/> Negligence - Medical/Dental <input type="checkbox"/> Negligence - Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence - Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition

Probate**Other Civil Filing Types**

Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters
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III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

<input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 90) <input type="checkbox"/> Securities (NRS 90)	<input type="checkbox"/> Investments (NRS 104 Art. 8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademarks (NRS 600A)	<input type="checkbox"/> Enhanced Case Mgmt/Business <input type="checkbox"/> Other Business Court Matters
--	---	---

July 16, 2013

Date



Signature of initiating party or representative

Heather S. Hume

CLERK OF THE COURT

1 **FFCL**
2 JOHN HENRY WRIGHT, ESQ.
3 Nevada Bar No. 6182
4 **THE WRIGHT LAW GROUP, P.C.**
5 2340 Paseo Del Prado, Suite D-305
6 Las Vegas, Nevada 89102
7 Telephone: (702) 405-0001
8 Facsimile: (702) 405-8454
9 Email: john@wrightlawgroupnv.com

10 *Attorney for Defendant/Counter-claimant*
11 *NV EAGLES, LLC*

12 **EIGHTH JUDICIAL DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 MELISSA LIEBERMAN, an individual,
15 on behalf of itself and all others similarly
16 situated,

17 Plaintiff,

18 vs.

19 MADEIRA CANYON HOMEOWNERS'
20 ASSOCIATION, a Nevada homeowners
21 association, NEVADA ASSOCIATION
22 SERVICES, INC., a Nevada corporation,
23 BANK OF AMERICA, N.A., a federal
24 savings bank, RESURGENT CAPITAL
25 SERVICES, LP, a national corporation,
26 UNDERWOOD PARTNERS, LLC, an
27 unknown business entity, and DOES I
28 through X, inclusive; ROE
CORPORATIONS, I through X, inclusive,

Defendants.

AND ALL RELATED MATTERS.

CASE NO. A-13-685203-C

DEPT. NO. XXIX

Hearing: February 10, 2022
Time: 9:00 a.m.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER ON POST-REMAND HEARING**

THIS MATTER concerning the parties' post-remand arguments, having come on for hearing, on the 10th day of February, 2022, John Henry Wright, Esq., appearing on behalf of Defendant/Counterclaimant NV EAGLES, LLC, and Melanie Morgan, Esq., appearing on behalf of Defendant BANK OF AMERICA, N.A. and THE BANK OF NEW YORK MELLON, AS TRUSTEES, and the Court having reviewed the Parties' Post-Remand Briefs and the respective

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Oppositions thereto and all exhibits attached thereto, considered the arguments of counsel, and being fully appraised in the premises, and good cause having been shown, makes the following Findings of Fact, Conclusions of Law and Orders as follows:

FINDINGS OF FACT

1. In the lead up to an HOA foreclosure auction authorized pursuant to NRS 116, of the property located at 2185 Pont National Dr., Henderson, Nevada, ("Subject Property") , on behalf of the first deed of trust holder, on or about April 1, 2011, Miles Bauer, its counsel, sent a check for \$486.00 to NAS enclosed with a cover letter explaining that the check was equal to "9 months worth of delinquent assessments" and intended to satisfy BANA's, as the predecessor to BNYM, "obligations to the HOA as holder of the deed of trust against the Property." *See Joint Trial Exhibit 9, bates 137-139.*

2. However, Miles Bauer miscalculated the super-priority amount as the actual nine-month super-priority amount was \$540.00. *See Recorder's Transcript of Hearing Re: Bench Trial-Day 3 (Decision) Page 7, 14-16; see also Joint Trial Exhibit 9, bates 134; see also Joint Trial Exhibit 11, bates 215.* Thus, the Miles Bauer check in the amount of \$486.00 did not satisfy the actual super-priority amount of \$540.00. *See Recorder's Transcript of Hearing Re: Bench Trial-Day 3 (Decision) Page 8, 13-15; see also Joint Trial Exhibit 9, bates 134; see also Joint Trial Exhibit 11, bates 215.* *See also*, Nevada Supreme Court Order of Remand at p.2, establishing tender was insufficient. The attempted payment was rejected by NAS.

3. Thereafter, neither Miles Bauer nor BANA nor BNYM did anything further to attempt to satisfy the super-priority portion of the HOA lien, and on April 1, 2013, NAS recorded a Notice of Foreclosure Sale in the Clark County Recorder's Office.

4. On June 7, 2013, NAS conducted the foreclosure sale wherein Underwood Partners, LLC ("Underwood"), as the highest bidder in the amount of \$30,000.00, purchased the Subject Property.

5. Underwood then conveyed its interest in the Subject Property to NV Eagles.

6. There was no valid tender of the super-priority portion of the HOA lien in the amount of \$540.00 by BANA, Miles Bauer, BNYM or any party prior to the HOA foreclosure sale conducted on June 7, 2013.



7. There was no evidence of any kind of fraud, unfairness or oppression that accounted for and/or affected the purchase price of the Subject Property at the foreclosure sale and/or affecting the foreclosure sale of the Subject Property.

8. Furthermore, notwithstanding the fact that the Miles Bauer check was for an amount less than the super-priority amount, BANA and/or BNYM had adequate time and notice to correct this error prior to the foreclosure sale. BANA and/or BNYM did nothing.

CONCLUSIONS OF LAW

1. The Nevada Supreme Court remanded this case in order for this Court to consider whether the holding in *7510 Perla Del Mar Ave. Trust v. Bank of America, N.A.*, 136 Nev. 62, 458 P.3d 348 (2020), setting forth the futility of tender defense, fits this factual scenario where an insufficient amount was actually tendered and rejected. The uncontroverted evidence in this case reveals that BANA made an ineffective tender that was insufficient to cure the super-priority default. NAS was justified in rejecting said tender for insufficiency. To apply *Perla Del Mar* to this case would have the effect of making the futility exception the rule regardless of whether or not a tender was made or intended to be made. The facts of this case simply do not meet the criteria for the application of *Perla Del Mar*. The rule in *Perla De Mar* is met to excuse a tender which was never sent because it was known to be futile - not excuse a tender that was insufficient.

2. As provided in *Resources Group, LLC v. Nevada Association Services, Inc.*, 437 P.3d 154, 156 (Nev. 2019), the party contesting the validity of the HOA's foreclosure of its super-priority lien bears the burden of demonstrating that it tendered its "delinquency-curing checks" and that it paid the correct delinquency amount in full prior to the sale. *Resources Group*, 437 P.3d 154, 159 (2019). *Resources Group* clearly and unequivocally sets forth that it is the bank's burden to show that the super-priority component of the HOA lien, was paid in full.

3. *Perla Del Mar* confirms *Resources Group*, "[w]e conclude that an offer to pay the super-priority amount in the future once that amount is determined, does not constitute tender sufficient to preserve the first deed of trust..." 136 Nev. Av. Rep 6 at 2. What *Perla Del Mar* actually does is create a very fact specific carve out: "[w]e further conclude, however, that formal tender is excused when evidence shows that the party entitled to payment had a known policy of rejecting



1 such payments.” *Id.* The Supreme Court expressly points out that “excused tender” is based on the
2 specific facts and specific evidence. *Id.*

3 4. The futility defense has no application where the facts clearly establish that the bank’s
4 actions or lack thereof were never influenced by a known policy of rejection and in fact, in the
5 instant case, actions were taken in spite of any policy of NAS. Here, the evidence establishes that
6 BANA fully intended to tender, did in fact attempt to tender, but made an inadequate tender that
7 NAS had every right to reject. Therefore, the circumstances must be such as to show that the party
8 was ready, willing and able to make actual payment, and that he would have done so *but for* some
9 action or statement of the creditor. “Actual tender of money is dispensed with if the debtor is
10 willing and ready to pay, and about to produce it, but is prevented by the creditor declaring he will
11 not receive it.” *McCalley v. Otey*, (Ala.) 42 Am. St. Rep. 87 (s. c. 12 So 406). It has long been held
12 that there must be evidence that the party who claims waiver or futility was in some way influenced
13 by the actions or statements. See *Shoebe’s Ex’rs v. Carr*, 17 Va. 10, 1812 Va. Lexus, 3 Munf. 10
14 (Va. 1812) (citing *Shank v. Groff*, 45 W.Va. 543, 32 S.E. 248).

15 5. Thus, employment of the “futility” defense, an affirmative defense, requires the bank to
16 establish that futility is the reason Miles Bauer did not tender. There must be a nexus between the
17 “knowing” and the inaction on the part of Miles Bauer. Thus, futility cannot be applicable if Miles
18 Bauer actually tendered. *Perla Del Mar* simply does not apply here. It is BANA’s burden to
19 establish that NAS’s policy was the reason it failed to tender a sufficient amount in this case. Not
20 by chance. Not by BANA benefiting from its own neglect. This necessarily involves a requirement
21 that BANA provide evidence that it actually relied on the policy in order to satisfy what is being
22 defined as the *Perla Del Mar* standard. BANA supplied no such evidence and cannot, because it
23 attempted to tender.

24 6. The futility exception cannot apply in a case where a failed tender was made and rightfully
25 rejected. The facts reveal that neither BANA nor Miles Bauer never relied on any NAS policy
26 when determining whether and in what amount to tender. It was BANA’s policy to retain Miles
27 Bauer to pay the super-priority amount of the lien, and BANA did in fact hire Miles Bauer to pay
28 the super-priority lien in this case Despite any collection agents’ interpretation of NRS 116.3116,



1 BANA and Miles Bauer were, in fact, making thousands of tenders based on their own
2 interpretation of the law. The trial testimony by both BANA's representative and Rock Jung, Esq.,
3 the attorney from Miles Bauer, bares these truths out. This is even confirmed in BANA's own brief:

4 As in Perla Trust, testimony from a BANA employee and Jung established
5 BANA's tender policy and the 1,000+ times that policy was put to use.

6 (BANA's brief at 6:19-21). There is nothing in the trial testimony to suggest that BANA relied in
7 any manner on the policies of any HOA or their respective collection agents during the relative
8 times between 2010 and 2013. Rather, it was BANA's policy to retain Miles Bauer to pay the
9 super-priority portion of the HOA lien. And, Miles Bauer did exactly that. The testimony of Rock
10 Jung reveals that even though it knew of the likelihood that NAS might decline to accept anything
11 less than an amount it believed was properly due, Miles Bauer followed its own policies and
12 tendered what it believed to be adequate to satisfy the bank's obligations. Rock Jung testified that
13 while employed by Miles Bauer he handled as many as five to six thousand HOA foreclosure cases,
14 most of which were dealing with NAS as the collection agent for the HOA, and despite NAS
15 typically rejecting anything less than the full amount, BANA and Miles Bauer nonetheless tendered
16 as many as twenty-five hundred (2500) checks.

17 7. There is testimony that is also noticeably lacking. There is no testimony by any BANA
18 representative or its attorney at Miles, Bauer, Bergstrom & Winters, LLP ("Miles Bauer"), stating
19 that the reason they "did not" tender was because NAS had a policy of rejecting any and all tenders.
20 This lack of testimony clearly reveals that it did not matter to Miles Bauer or BANA what NAS's
21 policy was. BANA and Miles Bauer, as reflected in their letters, interpreted NRS 116.3116 as they
22 saw appropriate and that was the only thing they considered in determining whether or not, and in
23 what amount, to tender. Miles Bauer is a law firm that interpreted the statute before writing its
24 letters and making its inadequate tender. Miles Bauer's interpretation of the law was clearly
25 contrary to any interpretation on the part of NAS. Moreover, the Supreme Court has addressed
26 this exact same scenario in 2020 Nev. Unpub. LEXIS 471, 462 P.3d 255 2020 (*Jessup II*) wherein
27 the Supreme Court stated:

28 [T]he district court found that "Mr Jung understood that failure to pay the
superpriority portion of the lien would result in the loss of his client's interest
in the property." The implication behind this factual finding is that the



1 district court determined it was unreasonable for Mr. Jung to abandon Miles
2 Bauer's legal position regarding NRS 116.3116(2) (2009) based solely on
3 ACS's September 2011 letter, and we are not persuaded that this finding was
4 clearly erroneous.

5 (*Id.*, at 3). Rock Jung is the same attorney that authored the letter to NAS and testified at trial in
6 this case. Thus, there can be no reliance on NAS's misinterpretation of NRS 116.3116 upon which
7 any policy could have been based.

8 8. Further, one's "mistaken belief regarding the foreclosure sale's effect could not alter the
9 sale's actual legal effect, particularly when the super-priority portion of the HOA's lien was still
10 in default at the time of the sale." *see Jessup I*, citing *Wells Fargo Bank, N.A. v. Radecki*, 134 Nev.
11 619, 426 P.3d 593 (Nev. 2018) ("subjective beliefs as to the effect of the foreclosure sale are
12 irrelevant"). Moreover, as noted above, any argument of reliance on NAS's interpretation is
13 contrary to Miles Bauer's own interpretation of the same statute and its own actions.

14 9. Here, the evidence establishes that regardless of any policy on the part of NAS, BANA fully
15 intended to tender, did in fact tender, but made an inadequate tender that NAS had every right to
16 reject.

17 ORDER

18 Now therefore, **IT IS HEREBY ORDERED**, that the Tender made by Miles Bauer on
19 behalf of BANK OF AMERICA, in the amount of Four Hundred Eighty-Six dollars (\$486.00) was
20 insufficient to cure the default in the Super-Priority component of the MADEIRA CANYON
21 HOMEOWNERS' ASSOCIATION's Delinquent Assessment Lien and was, therefore, rightfully
22 rejected. The futility of tender defense available to a party which in fact tenders, or attempts to
23 tender but provides an insufficient amount. The defense is available as an excuse to tender, not an
24 excuse to tender the wrong amount.

25 **IT IS FURTHER ORDERED** that the HOA Foreclosure Sale conducted on June 7, 2013,
26 extinguished BANK OF AMERICA, N.A. and THE BANK OF NEW YORK MELLON, AS
27 TRUSTEES' Deed of Trust.



1 **IT IS FURTHER ORDERED** that Defendant/Counterclaimant NV Eagles, LLC's is
2 Granted Quiet Title to the Property free and clear of any claims by BANK OF AMERICA, N.A.
3 and THE BANK OF NEW YORK MELLON, AS TRUSTEES' and all others.

4 **IT IS SO ORDERED.**

5 Dated this ____ day of March, 2022.

Dated this 11th day of March, 2022

HONORABLE DAVID M. JONES
5A9 3D6 CA3E 4216
David M Jones
District Court Judge

9 Order Prepared by:

Approved as to Form and Content:

10 DATED this 10th day of March, 2022.

DATED this 10th day of March, 2022.

11 **THE WRIGHT LAW GROUP, P.C.**

AKERMAN LLP

13 /s/ John Henry Wright, Esq.

JOHN HENRY WRIGHT, ESQ.

Nevada Bar No. 6182

2340 Paseo Del Prado, Suite D-305

Las Vegas, Nevada 89102

16 *Attorney for Defendant/Counter-claimant*
NV EAGLES, LLC

/s/ Lilith V. Xara, Esq.

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

LILITH V. XARA, ESQ.

Nevada Bar No. 13138

1635 Village Center Cir., Suite 200

Las Vegas, Nevada 89134

Attorneys for Plaintiff
Bank of America, N.A. and The Bank of
New York Mellon

Candi Ashdown

From: lilith.xara@akerman.com
Sent: Thursday, March 10, 2022 5:49 PM
To: Candi Ashdown
Cc: melanie.morgan@akerman.com
Subject: RE: CASE NO. A-13-685203-C -Ordr- MELISSA LIEBERMAN vs. MADEIRA CANYON HOMEOWNERS' ASSOCIATION, et al.

Hello Candi,

We have reviewed and you may submit with my e-signature.

Thank you,

Lilith V. Xara

(She/Her/Hers)

Associate, Consumer Financial Services, Data and Technology (CFS+) Practice Group

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From: Candi Ashdown <Candi@wrightlawgroupnv.com>
Sent: Thursday, March 10, 2022 4:01 PM
To: Morgan, Melanie (Ptrn-Las) <melanie.morgan@akerman.com>; Xara, Lilith (Assoc-Las) <lilith.xara@akerman.com>
Subject: FW: CASE NO. A-13-685203-C -Ordr- MELISSA LIEBERMAN vs. MADEIRA CANYON HOMEOWNERS' ASSOCIATION, et al.

[External to Akerman]

Have you had a chance to review the attached Order?

From: Candi Ashdown
Sent: Wednesday, March 9, 2022 5:38 PM
To: melanie.morgan@akerman.com; lilith.xara@akerman.com
Cc: carla.llarena@akerman.com; patricia.larsen@akerman.com; Dayana Shakerian <dayana@wrightlawgroupnv.com>
Subject: CASE NO. A-13-685203-C -Ordr- MELISSA LIEBERMAN vs. MADEIRA CANYON HOMEOWNERS' ASSOCIATION, et al.

Hello Counsel,

Please see the attached *Findings of Fact, Conclusions of Law and Order on Post-Remand Hearing* in the above referenced case. If the Order meets with your approval, may I have your permission to affix your e-signature? As always, your time and consideration is appreciated. Thank you.

Sincerely,

Candi Ashdown

Legal Assistant/Paralegal

The Wright Law Group P.C.

2340 Paseo Del Prado, Suite D-305

Las Vegas, NV 89102

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P. (702) 405-0001 ext. 108

F. (702) 405-8454



THE
WRIGHT LAW GROUP
P.C.

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Melissa Lieberman, Plaintiff(s) | CASE NO: A-13-685203-C
7 vs. | DEPT. NO. Department 29
8 Mediera Canyon Community
9 Association, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

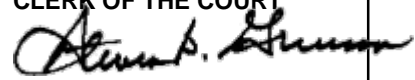
16 Service Date: 3/11/2022

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1 **NEOJ**
2 JOHN HENRY WRIGHT, ESQ.
3 Nevada Bar No. 6182
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6 Las Vegas, Nevada 89102
7 Telephone: (702) 405-0001
8 Facsimile: (702) 405-8454
9 Email: john@wrightlawgroupnv.com

10 *Attorneys for Defendant/Counter-claimant*
11 *NV EAGLES, LLC*

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

14 MELISSA LIEBERMAN, an individual, on
15 behalf of itself and all others similarly
16 situated,

17 Plaintiff,

18 vs.

19 MADEIRA CANYON HOMEOWNERS'
20 ASSOCIATION, a Nevada homeowners
21 association, NEVADA ASSOCIATION
22 SERVICES, INC., a Nevada corporation,
23 BANK OF AMERICA, N.A., a federal
24 savings bank, RESURGENT CAPITAL
25 SERVICES, LP, a national corporation,
26 UNDERWOOD PARTNERS, LLC, an
27 unknown business entity, and DOES I
28 through X, inclusive; ROE
CORPORATIONS, I through X, inclusive,

Defendants.

AND ALL RELATED MATTERS.

CASE NO. A-13-685203-C

DEPT. NO. XXIX

NOTICE OF ENTRY OF ORDER

NOTICE IS HEREBY GIVEN that an Findings of Fact, Conclusions of Law and Order on
Post Remand Hearing was entered on March 11, 2022, a copy of which is hereto attached as

///

///

///

///





Exhibit 1.

Dated this 11th day of March, 2022.

Respectfully Submitted By:
THE WRIGHT LAW GROUP, P.C.

/s/ John Henry Wright, Esq.
JOHN HENRY WRIGHT, ESQ.

Nevada Bar No. 6182
2340 Paseo Del Prado, Suite D-305
Las Vegas, Nevada 89102

Attorney for Defendant/Counter-claimant
NV EAGLES, LLC

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing NOTICE OF ENTRY OF ORDER was submitted
3 electronically for filing and/or service with the Eighth Judicial District Court on the 11th day of
4 March, 2022. Electronic service of the foregoing document shall be made in accordance with the
5 E-Service List as follows:¹

6 **AKERMAN LLP**

Melanie D. Morgan, Esq.

melanie.morgan@akerman.com

7 Lilith V. Xara, Esq.

lilith.xara@akerman.com

8 *Attorneys for Bank of America, N.A. and the Bank of New York Mellon*

9 I further certify that I served a copy of this document by mailing a true and correct copy,
10 thereof, postage prepaid, addressed to:

11 None

12 /s/ Candi Ashdown
13 An employee of **THE WRIGHT LAW GROUP, P.C.**

THE WRIGHT LAW GROUP P.C.
2340 Paseo Del Prado, Suite D-305
Las Vegas, Nevada 89102
Tel: (702) 405-0001 Fax: (702) 405-8454



EXHIBIT 1

1 **FFCL**
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10 *Attorney for Defendant/Counter-claimant*
11 *NV EAGLES, LLC*

12 **EIGHTH JUDICIAL DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 MELISSA LIEBERMAN, an individual,
15 on behalf of itself and all others similarly
16 situated,

17 Plaintiff,

18 vs.

19 MADEIRA CANYON HOMEOWNERS'
20 ASSOCIATION, a Nevada homeowners
21 association, NEVADA ASSOCIATION
22 SERVICES, INC., a Nevada corporation,
23 BANK OF AMERICA, N.A., a federal
24 savings bank, RESURGENT CAPITAL
25 SERVICES, LP, a national corporation,
26 UNDERWOOD PARTNERS, LLC, an
27 unknown business entity, and DOES I
28 through X, inclusive; ROE
CORPORATIONS, I through X, inclusive,

Defendants.

AND ALL RELATED MATTERS.

CASE NO. A-13-685203-C

DEPT. NO. XXIX

Hearing: February 10, 2022
Time: 9:00 a.m.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER ON POST-REMAND HEARING**

THIS MATTER concerning the parties' post-remand arguments, having come on for hearing, on the 10th day of February, 2022, John Henry Wright, Esq., appearing on behalf of Defendant/Counterclaimant NV EAGLES, LLC, and Melanie Morgan, Esq., appearing on behalf of Defendant BANK OF AMERICA, N.A. and THE BANK OF NEW YORK MELLON, AS TRUSTEES, and the Court having reviewed the Parties' Post-Remand Briefs and the respective





Oppositions thereto and all exhibits attached thereto, considered the arguments of counsel, and being fully appraised in the premises, and good cause having been shown, makes the following Findings of Fact, Conclusions of Law and Orders as follows:

FINDINGS OF FACT

1. In the lead up to an HOA foreclosure auction authorized pursuant to NRS 116, of the property located at 2185 Pont National Dr., Henderson, Nevada, ("Subject Property") , on behalf of the first deed of trust holder, on or about April 1, 2011, Miles Bauer, its counsel, sent a check for \$486.00 to NAS enclosed with a cover letter explaining that the check was equal to "9 months worth of delinquent assessments" and intended to satisfy BANA's, as the predecessor to BNYM, "obligations to the HOA as holder of the deed of trust against the Property." *See Joint Trial Exhibit 9, bates 137-139.*

2. However, Miles Bauer miscalculated the super-priority amount as the actual nine-month super-priority amount was \$540.00. *See Recorder's Transcript of Hearing Re: Bench Trial-Day 3 (Decision) Page 7, 14-16; see also Joint Trial Exhibit 9, bates 134; see also Joint Trial Exhibit 11, bates 215.* Thus, the Miles Bauer check in the amount of \$486.00 did not satisfy the actual super-priority amount of \$540.00. *See Recorder's Transcript of Hearing Re: Bench Trial-Day 3 (Decision) Page 8, 13-15; see also Joint Trial Exhibit 9, bates 134; see also Joint Trial Exhibit 11, bates 215.* *See also,* Nevada Supreme Court Order of Remand at p.2, establishing tender was insufficient. The attempted payment was rejected by NAS.

3. Thereafter, neither Miles Bauer nor BANA nor BNYM did anything further to attempt to satisfy the super-priority portion of the HOA lien, and on April 1, 2013, NAS recorded a Notice of Foreclosure Sale in the Clark County Recorder's Office.

4. On June 7, 2013, NAS conducted the foreclosure sale wherein Underwood Partners, LLC ("Underwood"), as the highest bidder in the amount of \$30,000.00, purchased the Subject Property.

5. Underwood then conveyed its interest in the Subject Property to NV Eagles.

6. There was no valid tender of the super-priority portion of the HOA lien in the amount of \$540.00 by BANA, Miles Bauer, BNYM or any party prior to the HOA foreclosure sale conducted on June 7, 2013.



7. There was no evidence of any kind of fraud, unfairness or oppression that accounted for and/or affected the purchase price of the Subject Property at the foreclosure sale and/or affecting the foreclosure sale of the Subject Property.

8. Furthermore, notwithstanding the fact that the Miles Bauer check was for an amount less than the super-priority amount, BANA and/or BNYM had adequate time and notice to correct this error prior to the foreclosure sale. BANA and/or BNYM did nothing.

CONCLUSIONS OF LAW

1. The Nevada Supreme Court remanded this case in order for this Court to consider whether the holding in *7510 Perla Del Mar Ave. Trust v. Bank of America, N.A.*, 136 Nev. 62, 458 P.3d 348 (2020), setting forth the futility of tender defense, fits this factual scenario where an insufficient amount was actually tendered and rejected. The uncontroverted evidence in this case reveals that BANA made an ineffective tender that was insufficient to cure the super-priority default. NAS was justified in rejecting said tender for insufficiency. To apply *Perla Del Mar* to this case would have the effect of making the futility exception the rule regardless of whether or not a tender was made or intended to be made. The facts of this case simply do not meet the criteria for the application of *Perla Del Mar*. The rule in *Perla De Mar* is met to excuse a tender which was never sent because it was known to be futile - not excuse a tender that was insufficient.

2. As provided in *Resources Group, LLC v. Nevada Association Services, Inc.*, 437 P.3d 154, 156 (Nev. 2019), the party contesting the validity of the HOA's foreclosure of its super-priority lien bears the burden of demonstrating that it tendered its "delinquency-curing checks" and that it paid the correct delinquency amount in full prior to the sale. *Resources Group*, 437 P.3d 154, 159 (2019). *Resources Group* clearly and unequivocally sets forth that it is the bank's burden to show that the super-priority component of the HOA lien, was paid in full.

3. *Perla Del Mar* confirms *Resources Group*, "[w]e conclude that an offer to pay the super-priority amount in the future once that amount is determined, does not constitute tender sufficient to preserve the first deed of trust..." 136 Nev. Av. Rep 6 at 2. What *Perla Del Mar* actually does is create a very fact specific carve out: "[w]e further conclude, however, that formal tender is excused when evidence shows that the party entitled to payment had a known policy of rejecting



1 such payments.” *Id.* The Supreme Court expressly points out that “excused tender” is based on the
2 specific facts and specific evidence. *Id.*

3 4. The futility defense has no application where the facts clearly establish that the bank’s
4 actions or lack thereof were never influenced by a known policy of rejection and in fact, in the
5 instant case, actions were taken in spite of any policy of NAS. Here, the evidence establishes that
6 BANA fully intended to tender, did in fact attempt to tender, but made an inadequate tender that
7 NAS had every right to reject. Therefore, the circumstances must be such as to show that the party
8 was ready, willing and able to make actual payment, and that he would have done so *but for* some
9 action or statement of the creditor. “Actual tender of money is dispensed with if the debtor is
10 willing and ready to pay, and about to produce it, but is prevented by the creditor declaring he will
11 not receive it.” *McCalley v. Otey*, (Ala.) 42 Am. St. Rep. 87 (s. c. 12 So 406). It has long been held
12 that there must be evidence that the party who claims waiver or futility was in some way influenced
13 by the actions or statements. See *Shoebe’s Ex’rs v. Carr*, 17 Va. 10, 1812 Va. Lexus, 3 Munf. 10
14 (Va. 1812) (citing *Shank v. Groff*, 45 W.Va. 543, 32 S.E. 248).

15 5. Thus, employment of the “futility” defense, an affirmative defense, requires the bank to
16 establish that futility is the reason Miles Bauer did not tender. There must be a nexus between the
17 “knowing” and the inaction on the part of Miles Bauer. Thus, futility cannot be applicable if Miles
18 Bauer actually tendered. *Perla Del Mar* simply does not apply here. It is BANA’s burden to
19 establish that NAS’s policy was the reason it failed to tender a sufficient amount in this case. Not
20 by chance. Not by BANA benefiting from its own neglect. This necessarily involves a requirement
21 that BANA provide evidence that it actually relied on the policy in order to satisfy what is being
22 defined as the *Perla Del Mar* standard. BANA supplied no such evidence and cannot, because it
23 attempted to tender.

24 6. The futility exception cannot apply in a case where a failed tender was made and rightfully
25 rejected. The facts reveal that neither BANA nor Miles Bauer never relied on any NAS policy
26 when determining whether and in what amount to tender. It was BANA’s policy to retain Miles
27 Bauer to pay the super-priority amount of the lien, and BANA did in fact hire Miles Bauer to pay
28 the super-priority lien in this case Despite any collection agents’ interpretation of NRS 116.3116,



1 BANA and Miles Bauer were, in fact, making thousands of tenders based on their own
2 interpretation of the law. The trial testimony by both BANA's representative and Rock Jung, Esq.,
3 the attorney from Miles Bauer, bares these truths out. This is even confirmed in BANA's own brief:

4 As in Perla Trust, testimony from a BANA employee and Jung established
5 BANA's tender policy and the 1,000+ times that policy was put to use.

6 (BANA's brief at 6:19-21). There is nothing in the trial testimony to suggest that BANA relied in
7 any manner on the policies of any HOA or their respective collection agents during the relative
8 times between 2010 and 2013. Rather, it was BANA's policy to retain Miles Bauer to pay the
9 super-priority portion of the HOA lien. And, Miles Bauer did exactly that. The testimony of Rock
10 Jung reveals that even though it knew of the likelihood that NAS might decline to accept anything
11 less than an amount it believed was properly due, Miles Bauer followed its own policies and
12 tendered what it believed to be adequate to satisfy the bank's obligations. Rock Jung testified that
13 while employed by Miles Bauer he handled as many as five to six thousand HOA foreclosure cases,
14 most of which were dealing with NAS as the collection agent for the HOA, and despite NAS
15 typically rejecting anything less than the full amount, BANA and Miles Bauer nonetheless tendered
16 as many as twenty-five hundred (2500) checks.

17 7. There is testimony that is also noticeably lacking. There is no testimony by any BANA
18 representative or its attorney at Miles, Bauer, Bergstrom & Winters, LLP ("Miles Bauer"), stating
19 that the reason they "did not" tender was because NAS had a policy of rejecting any and all tenders.
20 This lack of testimony clearly reveals that it did not matter to Miles Bauer or BANA what NAS's
21 policy was. BANA and Miles Bauer, as reflected in their letters, interpreted NRS 116.3116 as they
22 saw appropriate and that was the only thing they considered in determining whether or not, and in
23 what amount, to tender. Miles Bauer is a law firm that interpreted the statute before writing its
24 letters and making its inadequate tender. Miles Bauer's interpretation of the law was clearly
25 contrary to any interpretation on the part of NAS. Moreover, the Supreme Court has addressed
26 this exact same scenario in 2020 Nev. Unpub. LEXIS 471, 462 P.3d 255 2020 (*Jessup II*) wherein
27 the Supreme Court stated:

28 [T]he district court found that "Mr Jung understood that failure to pay the
superpriority portion of the lien would result in the loss of his client's interest
in the property." The implication behind this factual finding is that the



1 district court determined it was unreasonable for Mr. Jung to abandon Miles
2 Bauer's legal position regarding NRS 116.3116(2) (2009) based solely on
3 ACS's September 2011 letter, and we are not persuaded that this finding was
4 clearly erroneous.

5 (*Id.*, at 3). Rock Jung is the same attorney that authored the letter to NAS and testified at trial in
6 this case. Thus, there can be no reliance on NAS's misinterpretation of NRS 116.3116 upon which
7 any policy could have been based.

8 8. Further, one's "mistaken belief regarding the foreclosure sale's effect could not alter the
9 sale's actual legal effect, particularly when the super-priority portion of the HOA's lien was still
10 in default at the time of the sale." *see Jessup I*, citing *Wells Fargo Bank, N.A. v. Radecki*, 134 Nev.
11 619, 426 P.3d 593 (Nev. 2018) ("subjective beliefs as to the effect of the foreclosure sale are
12 irrelevant"). Moreover, as noted above, any argument of reliance on NAS's interpretation is
13 contrary to Miles Bauer's own interpretation of the same statute and its own actions.

14 9. Here, the evidence establishes that regardless of any policy on the part of NAS, BANA fully
15 intended to tender, did in fact tender, but made an inadequate tender that NAS had every right to
16 reject.

17 ORDER

18 Now therefore, **IT IS HEREBY ORDERED**, that the Tender made by Miles Bauer on
19 behalf of BANK OF AMERICA, in the amount of Four Hundred Eighty-Six dollars (\$486.00) was
20 insufficient to cure the default in the Super-Priority component of the MADEIRA CANYON
21 HOMEOWNERS' ASSOCIATION's Delinquent Assessment Lien and was, therefore, rightfully
22 rejected. The futility of tender defense available to a party which in fact tenders, or attempts to
23 tender but provides an insufficient amount. The defense is available as an excuse to tender, not an
24 excuse to tender the wrong amount.

25 **IT IS FURTHER ORDERED** that the HOA Foreclosure Sale conducted on June 7, 2013,
26 extinguished BANK OF AMERICA, N.A. and THE BANK OF NEW YORK MELLON, AS
27 TRUSTEES' Deed of Trust.



1 **IT IS FURTHER ORDERED** that Defendant/Counterclaimant NV Eagles, LLC's is
2 Granted Quiet Title to the Property free and clear of any claims by BANK OF AMERICA, N.A.
3 and THE BANK OF NEW YORK MELLON, AS TRUSTEES' and all others.

4 **IT IS SO ORDERED.**

Dated this 11th day of March, 2022

5 Dated this ____ day of March, 2022.

HONORABLE DAVID M. JONES
5A9 3D6 CA3E 4216
David M Jones
District Court Judge

9 Order Prepared by:

Approved as to Form and Content:

10 DATED this 10th day of March, 2022.

DATED this 10th day of March, 2022.

11 **THE WRIGHT LAW GROUP, P.C.**

AKERMAN LLP

13 /s/ John Henry Wright, Esq.

JOHN HENRY WRIGHT, ESQ.

Nevada Bar No. 6182

2340 Paseo Del Prado, Suite D-305

Las Vegas, Nevada 89102

16 *Attorney for Defendant/Counter-claimant*
NV EAGLES, LLC

/s/ Lilith V. Xara, Esq.

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

LILITH V. XARA, ESQ.

Nevada Bar No. 13138

1635 Village Center Cir., Suite 200

Las Vegas, Nevada 89134

Attorneys for Plaintiff
Bank of America, N.A. and The Bank of
New York Mellon

Candi Ashdown

From: lilith.xara@akerman.com
Sent: Thursday, March 10, 2022 5:49 PM
To: Candi Ashdown
Cc: melanie.morgan@akerman.com
Subject: RE: CASE NO. A-13-685203-C -Ordr- MELISSA LIEBERMAN vs. MADEIRA CANYON HOMEOWNERS' ASSOCIATION, et al.

Hello Candi,

We have reviewed and you may submit with my e-signature.

Thank you,

Lilith V. Xara

(She/Her/Hers)

Associate, Consumer Financial Services, Data and Technology (CFS+) Practice Group

Akerman LLP | 1635 Village Center Circle, Suite 200 | Las Vegas, NV 89134

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[External to Akerman]

Have you had a chance to review the attached Order?

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Cc: carla.llarena@akerman.com; patricia.larsen@akerman.com; Dayana Shakerian <dayana@wrightlawgroupnv.com>
Subject: CASE NO. A-13-685203-C -Ordr- MELISSA LIEBERMAN vs. MADEIRA CANYON HOMEOWNERS' ASSOCIATION, et al.

Hello Counsel,

Please see the attached *Findings of Fact, Conclusions of Law and Order on Post-Remand Hearing* in the above referenced case. If the Order meets with your approval, may I have your permission to affix your e-signature? As always, your time and consideration is appreciated. Thank you.

Sincerely,

Candi Ashdown

Legal Assistant/Paralegal

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THE
WRIGHT LAW GROUP
P.C.

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4		
5		
6	Melissa Lieberman, Plaintiff(s)	CASE NO: A-13-685203-C
7	vs.	DEPT. NO. Department 29
8	Mediera Canyon Community	
9	Association, Defendant(s)	

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 3/11/2022

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Lilith Xara	lilith.xara@akerman.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property**COURT MINUTES****October 17, 2013**

A-13-685203-C

Melissa Lieberman, Plaintiff(s)

vs.

Mediera Canyon Community Association, Defendant(s)

October 17, 2013**9:00 AM****Motion to Dismiss**

**Underwood Partner's
Motion to Dismiss or,
in the alternative,
Motion for Summary
Judgment**

HEARD BY: Bare, Rob**COURTROOM:** RJC Courtroom 03C**COURT CLERK:** Andrea Natali**RECORDER:** Carrie Hansen**REPORTER:****PARTIES****PRESENT:**

Ball, Zachary T

Attorney

Cogburn, Jamie S.

Attorney

Shevorski, Steven G.

Attorney

Vilkin, Richard J.

Attorney

JOURNAL ENTRIES

- COURT NOTED, it was inclined to staying everything 90 days, including discovery, to wait for a decision from the supreme court. Mr. Ball stated he and Mr. Shevorski had orally stipulated to hold all arguments related to Bank of America, Bank of New York Mellon, and the recorded lien against the property could be stayed. Further, Mr. Ball stated the issue with the Plaintiff was separate and requested the ownership interest of the property be determined. Upon Court's inquiry, Mr. Cogburn agreed to leave the quiet title action and dismiss the unfair trade practices and abuse practices claim. Mr. Cogburn argued parts of NRS 107 were not exclusive; inquiring as to which statute the HOA should follow to foreclose. Argument by Mr. Vilkin regarding whether the wrongful foreclosure should be stayed as to his client and whether this case should be in arbitration. Following further arguments by counsel, COURT ORDERED, Motion to Dismiss GRANTED as to Deceptive unfair

trade practices and abuse of process; DENIED as to Quite Title. COURT FURTHER ORDERED, the matter noted by Mr. Vilkin would remain open; all other actions and discovery are STAYED. COURT NOTED the Motion to Dismiss as to the third party complaint will stand. Mr. Ball to prepare the Order and provide to counsel prior to submitting to the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Title to Property

COURT MINUTES

December 10, 2013

A-13-685203-C Melissa Lieberman, Plaintiff(s)
vs.
Mediera Canyon Community Association, Defendant(s)

December 10, 2013 9:00 AM Motion to Dismiss

HEARD BY: Bare, Rob

COURTROOM: RJC Courtroom 03C

COURT CLERK: Susie Schofield

RECORDER: Carrie Hansen

REPORTER:

PARTIES

PRESENT:	Cogburn, Jamie S.	Attorney
	Lagomarsino, Andre	Attorney
	Vilkin, Richard J.	Attorney

JOURNAL ENTRIES

- Court presented an overview in regard to the Third Party Complaint. Arguments by counsel in support of Motion to Dismiss Third Party Complaint by Nevada Association Services, Inc.; arguments in opposition thereto. Letter submitted by Mr. Vilkin to be made a part of the record. Colloquy regarding law in regard to relationship between lawyer and client. Court stated its findings, and ORDERED, Third Party Defendants' Motion to Dismiss Third Party Complaint by Nevada Association Services, Inc., GRANTED. In regard to Countermotion for Sanctions, COURT ORDERED, Countermotion DENIED.

Upon inquiry of Mr. Vilkin, Court confirmed the Interpleader cause of action within the Third Party Complaint is not dismissed. Mr. Lagomarsino to prepare the Order and circulate with counsel.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	January 09, 2014
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)	
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January 09, 2014	9:00 AM	Motion to Dismiss
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HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: Susie Schofield

RECORDER: Debbie Winn

REPORTER:

PARTIES

PRESENT: Vilkin, Richard J. Attorney

JOURNAL ENTRIES

- Court noted Plaintiff's counsel not present. COURT ORDERED, matter CONTINUED. If Plaintiff's counsel not present at next court hearing, matter will proceed.

1/23/14 9:00 AM - Defendant Nevada Association Services, Inc.'s Motion to Dismiss Plaintiff's complaint And For Attorney's Fees and Costs... CONTINUED

CLERK'S NOTE: A copy of this Minute Order to be placed in the attorney folder(s) of: Jamie S. Cobgurn (Cogburn Law Offcs).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	January 23, 2014
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)
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January 23, 2014 9:00 AM Motion to Dismiss

HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: Susie Schofield

RECORDER: Carrie Hansen

REPORTER:

PARTIES

PRESENT:	Cogburn, Jamie S. Gutke, David W. Vilkin, Richard J. Wright, John H.	Attorney Attorney Attorney Attorney
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JOURNAL ENTRIES

- Court presented an overview of the case in regard to the purchase of property, the deficiency in HOA fees, the foreclosure sale to Underwood Partners, and Defendant's Motion to Dismiss the case in its entirety. Colloquy regarding McKnight as to quiet title actions per case law and if wrongful foreclosure issues should be arbitrated. Arguments by counsel as to quiet title actions being exempt from arbitration; opposition thereto.

COURT ORDERED, Defendant Nevada Association Services, Inc.'s Motion to Dismiss Plaintiff's Complaint and for Attorney's Fees and Costs, GRANTED. Mr. Vilkin to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	March 18, 2014
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)	
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March 18, 2014	3:00 AM	Minute Order
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HEARD BY: Bare, Rob **COURTROOM:** No Location

COURT CLERK: Susie Schofield

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- DECISION: Defendant's Motion to Consolidate

Having examined the Motions, noting the notice of non-Opposition on file, and good cause appearing, Defendant's Motion to Consolidate is GRANTED. Consolidation is appropriate as the two cases deal with title to the same property. Case A-12-690944-C shall be consolidated with the lower numbered case, A-13-685203-C. The hearing on this matter set for March 25, 2014 is hereby VACATED. Counsel for moving party to prepare and submit proposed order to chambers within 10 days of entry of the minute order.

CLERK'S NOTE: A copy of this Minute Order to be placed in the attorney folder(s) of: John Henry Wright (Wright Law Group), Jamie S. Cogburn (Cogburn Law Offcs), Ariel E. Stern (Akerman Senterfitt), Richard J. Vilkin, Esq., and Joseph P. Hardy (Gordon & Rees).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	October 20, 2015
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)	
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October 20, 2015	1:10 PM	Minute Order
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HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: Tia Everett

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Having examined the Motion to Dismiss, noting the Notice of Non-Opposition filed, and good cause appearing, the Motion to Dismiss is GRANTED. Pursuant to EDCR 2.23, the hearing on this matter set for October 27, 2015, is advanced and VACATED. Moving party to prepare and submit proposed order to chambers within 10 days.

CLERK'S NOTE: The above minute order has been distributed to:

Jamie Cogburn Esq. (jsc@cogburnlaw.com)

Ariel Stern Esq. (ariel.stern@akerman.com)

David Gutke Esq. (dgutke@swlaw.com)

John Wirght Esq. (john@wrightlawgrounv.com)

Christina Wang Esq. (christina.wang@fnf.com)

Richard Vilkin Esq. (richard@vilkinlaw.com)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	July 07, 2016
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)
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July 07, 2016	3:00 AM	Minute Order
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HEARD BY: Bare, Rob	COURTROOM: No Location
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COURT CLERK: Andrea Natali

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- At the request of Court, for judicial economy, the Defendant NV Eagles, LLC's Motion for Summary Judgment Against Plaintiff Melissa Lieberman and Crossclaimant Bank of America, N.A. and the Defendant Bank Of America, N.A.'S Opposition To NV Eagles, LLC's Motion For Summary Judgment And Countermotion For Summary Judgment currently scheduled for July 14, 2016 is RESCHEDULED to August 11, 2016 9 a.m.

CLERK'S NOTE: Counsel is to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the following parties via Wiznet E-Service: Akerman Las Vegas Office akermanlas@akerman.com, Ariel E. Stern, Esq. ariel.stern@akerman.com, Elizabeth Streible elizabeth.streible@akerman.com, Rebekkah Bodoff rebekkah.bodoff@akerman.com, Jamie Cogburn jsc@cogburnlaw.com, Lisa Catanzaro lcatanzaro@cogburnlaw.com, Wiznet Filing wiznet@cogburnlaw.com, Lo Mercado lmercado@cogburnlaw.com, David Gluth dgluth@gordonrees.com, Gayle Angulo gangulo@gordonrees.com, Marie Ogella mogella@gordonrees.com, Robert Larsen rlarsen@gordonrees.com, Dayana dayana@wrightlawgroupnv.com (7/7/16 amn).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	August 11, 2016
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)	
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August 11, 2016	9:00 AM	All Pending Motions
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HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: Andrea Natali

RECORDER: Carrie Hansen

REPORTER:

PARTIES

PRESENT: Brenner, Darren T. Attorney

JOURNAL ENTRIES

- DEFENDANT NV EAGLES, LLC'S MOTION FOR SUMMARY JUDGMENT AGAINST PLAINTIFF MELISSA LIEBERMAN AND CROSS CLAIMANT BANK OF AMERICA, N.A. DEFENDANT BANK OF AMERICA, N.A.'S OPPOSITION TO NV EAGLES, LLC'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT

Mr. Wright checked in; however, was NOT PRESENT when the case was called. Mr. Brenner stated there were some matter's worth mentioning; however, since opposing counsel wasn't present, requested the matter be trailed or continued for Mr. Wright's presence. Matters TRAILED for opposing counsel's presence.

Matters RECALLED. Same party present. COURT ORDERED, matters CONTINUED for Mr. Wright's presence.

CONTINUED TO: 8/18/16 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	August 18, 2016
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)
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August 18, 2016 9:00 AM All Pending Motions

HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: Andrea Natali

RECORDER: Carrie Hansen

REPORTER:

PARTIES

PRESENT: Brenner, Darren T.	Attorney
Wright, John H.	Attorney

JOURNAL ENTRIES

- DEFENDANT BANK OF AMERICA, N.A.'S OPPOSITION TO NV EAGLES, LLC'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT
DEFENDANT NV EAGLES, LLC'S MOTION FOR SUMMARY JUDGMENT AGAINST PLAINTIFF MELISSA LIEBERMAN AND CROSSCLAIMANT BANK OF AMERICA, N.A.

Court provided a procedural overview of the case; noting a new decision had issued. Mr. Brenner argued regarding the 9th Circuit decision indicating the statutes were unconstitutional under the 14th Amendment of the Constitution; advised this matter was briefed under the Shadow Wood decision but there is now the Stone Hollow decision. Argument by Mr. Wright regarding the Stone Hollow decision, regarding the letter that was meant to represent the maximum amount the HOA could collect, which wasn't true, as they could collect the rest of the lien. Colloquy regarding who was to decide whether a valid or true tender was rendered. Argument by Mr. Wright regarding the facts contained in the letter, the legal effect of the letter, the issue of whether Chapter 116 required notice to the banks and whether there was due process up until that point. Further, Mr. Wright requested the motions be continued 60-90 days, as there was more discovery to conduct, and there wasn't a factual

dispute. Mr. Brenner agreed that whether the letter exposed something improper was for the Court to decide; however, argued that the case should be decided at least on the tender matter. COURT ORDERED, matters CONTINUED for chambers decision to issue today or tomorrow.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	August 24, 2016
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)	
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August 24, 2016	3:00 AM	Decision
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HEARD BY: Bare, Rob **COURTROOM:** No Location

COURT CLERK: Andrea Natali

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- As the Decision on the Motion for Summary Judgment has not yet been issued, COURT ORDERED the Court's Decision Re: Status of Pending Motions currently set for August 24, 2016, shall be CONTINUED to September 14, 2016, in Chambers. Parties need not appear at the next Court date.

9/14/16 (CHAMBERS) - DECISION ON THE MOTION FOR SUMMARY JUDGMENT

CLERK'S NOTE: Counsel is to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the following parties via Wiznet E-Service:

Akerman Las Vegas Office akermanlas@akerman.com,
Ariel E. Stern, Esq. ariel.stern@akerman.com,
Elizabeth Streible elizabeth.streible@akerman.com,
Rebekkah Bodoff rebekkah.bodoff@akerman.com,
Jamie Cogburn jsc@cogburnlaw.com,
Lisa Catanzaro lcatanzaro@cogburnlaw.com,
Wiznet Filing wiznet@cogburnlaw.com,

Lo Mercado lmercado@cogburnlaw.com,
David Gluth dgluth@gordonrees.com,
Gayle Angulo gangulo@gordonrees.com,
Marie Ogella mogella@gordonrees.com,
Robert Larsen rlarsen@gordonrees.com,
Dayana dayana@wrightlawgroupnv.com
(9/6/16 amn).

DISTRICT COURT
CLARK COUNTY, NEVADA

Title to Property

COURT MINUTES

September 09, 2016

A-13-685203-C Melissa Lieberman, Plaintiff(s)
vs.
Mediera Canyon Community Association, Defendant(s)

September 09, 2016 3:00 AM Minute Order

HEARD BY: Bare, Rob

COURTROOM: No Location

COURT CLERK: Andrea Natali

RECORDED:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- This matter came before this Court on August 18, 2016. After carefully considering the papers submitted and hearing arguments, Court issued its Decision this 6th day of September, 2016. COURT ORDERED, both Defendant NV Eagles, LLC's Motion for Summary Judgment and Defendant Bank of America's Countermotion for Summary Judgment are DENIED.

Summary judgment is appropriate under NRCP 56 when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law. *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party. *Id.* at 731, 121 P.3d at 1031.

In this case, there is a genuine issue of material fact as to whether there was a proper tender by the Bank, if that amount was the super-priority amount, and if the HOA acted properly in rejecting the attempted tender. On April 1, 2011, Defendant Bank of America sent a check in the amount of \$486.00 to the HOA, which was rejected because the HOA contended that the lien was not paid in

full. Additionally, there is a genuine issue of material fact as to whether Defendant NV Eagles is an innocent bona fide purchaser. [S]ubsequent purchaser is bona fide ... if it takes the property 'for a valuable consideration and without notice of the prior equity, and without notice of facts which upon diligent inquiry would be indicated and from which notice would be imputed to him, if he failed to make such inquiry.' Shadow Wood HOA v. N.Y. Cmty. Bancorp., 132 Nev. Adv. Op. 5, 366 P.3d 1105, 1115 (2016) (citing Bailey v. Butner, 64 Nev. 1, 19, 176 P.2d 226, 234 (1947)). Defendant Bank of America asserts that Defendant NV Eagles had inquiry notice of the Bank's super-priority tender, and that Defendant NV Eagles is therefore not a bona fide purchaser. Therefore, summary judgment is not appropriate and the motion and countermotion are both denied.

Counsel for Plaintiff is directed to submit a proposed Order consistent with this Minute Order, the submitted motions, and oral arguments. Counsel to provide a proposed Order to this Court in accordance with EDCR 7.21. A Status Check Re: Order is set for November 9, 2016 in chambers. Parties need not appear.

11/9/16 (CHAMBERS) - STAUS CHECK: ORDER

CLERK'S NOTE: Counsel is to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the following parties via Wiznet E-Service:

Akerman Las Vegas Office akermanlas@akerman.com,

Ariel E. Stern, Esq. ariel.stern@akerman.com,

Elizabeth Streible elizabeth.streible@akerman.com,

Rebekkah Bodoff rebekkah.bodoff@akerman.com,

Jamie Cogburn jsc@cogburnlaw.com,

Wiznet Filing wiznet@cogburnlaw.com,

Lo Mercado lmercado@cogburnlaw.com,

David Gluth dgluth@gordonrees.com,

Gayle Angulo gangulo@gordonrees.com,

Marie Ogella mogella@gordonrees.com,

Robert Larsen rlarsen@gordonrees.com,

Dayana dayana@wrightlawgroupnv.com

(9/9/16 amn).

DISTRICT COURT
CLARK COUNTY, NEVADA

Title to Property

COURT MINUTES

November 09, 2016

A-13-685203-C Melissa Lieberman, Plaintiff(s)
vs.
Mediera Canyon Community Association, Defendant(s)

November 09, 2016 3:00 AM Status Check

HEARD BY: Bare, Rob

COURTROOM: Chambers

COURT CLERK: Sharon Chun

RECORDED:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- As the Order has been provided, COURT ORDERED, OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	December 28, 2017
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)	
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December 28, 2017 8:00 AM Minute Order

HEARD BY: Bare, Rob **COURTROOM:** Chambers

COURT CLERK: Denise Duron

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Having examined the Motion to Re-Open Case, noting no Opposition filed, and good cause appearing, the Motion to Re-Open is GRANTED. Pursuant to EDCR 2.23, the hearing on this matter set for January 9, 2018, are advanced and VACATED. Moving party to prepare and submit proposed order to chambers within 10 days.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Denise Duron, to all registered parties for Odyssey File & Serve. (dd-12/28/17)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	August 07, 2018
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)	
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August 07, 2018	11:00 AM	Minute Order
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HEARD BY: Bare, Rob **COURTROOM:** Chambers

COURT CLERK: Kory Schlitz

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Having examined the Motion to Set Trial, noting no Opposition filed, and good cause appearing, the Motion to Set Trial is GRANTED. Pursuant to EDCR 2.23, the hearing on this matter set for August 28, 2018, is advanced and VACATED. This matter will be set on this Court's January 7, 2019 trial stack. The Court will issue a Trial Setting Order to that effect.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Kory Schlitz, to all registered parties for Odyssey File and Serve. (8/7/18)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	December 13, 2018
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)	
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December 13, 2018 11:00 AM Pretrial/Calendar Call

HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: Andrea Natali

RECORDER: Carrie Hansen

REPORTER:

PARTIES

PRESENT:	Cogburn, Jamie S.	Attorney
	Garner, Rex D.	Attorney
	Hong, Joseph Y.	Attorney

JOURNAL ENTRIES

- As there were no other settings available within this stack, COURT ADVISED, the trial would have to be reset on another stack. Mr. Hong stated he had conducted some calculations and the five year rule would run next week; therefore, requested the Court allow the parties to submit a stipulation and order to extend the five years. COURT ADVISED it was amenable to that request. Mr. Garner and Mr. Cogburn so agreed. Mr. Hong to prepare the stipulation and order and submit to court. Mr. Cogburn requested the jury trial be reset on the May stack. COURT SO ORDERED, jury trial VACATED and RESET on the May/2019 stack. Order Setting Civil Jury Trial, Pre Trial / Calendar call to issue.

5/9/19 - 11:00 AM - PRETRIAL / CALENDAR CALL

5/28/19 - 9:00 AM - JURY BENCH TRIAL (STACK)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	May 09, 2019
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)	
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May 09, 2019	11:00 AM	Pretrial/Calendar Call
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HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: Lauren Kidd

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT:	Brenner, Darren T.	Attorney
	Hong, Joseph Y.	Attorney

JOURNAL ENTRIES

- Mr. Hong indicated the matter was not ready for this stack. Counsel agreed to move to another stack and agreed to amend to assert declaratory quiet title cross claims. Upon Court's inquiry Mr. Brenner advised the five year rule runs 12/19/19 so parties requested the trial be moved to a date before December. COURT ORDERED, trial VACATED and RESET; Court to issue a new trial order.

9/26/19 11:00 AM PRETRIAL/COURT CALL

10/14/19 9:00 AM BENCH TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Title to Property COURT MINUTES September 26, 2019

A-13-685203-C Melissa Lieberman, Plaintiff(s)
vs.
Mediera Canyon Community Association, Defendant(s)

September 26, 2019 11:00 AM Pretrial/Calendar Call

HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: Denise Husted

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Brenner, Darren T. Attorney

JOURNAL ENTRIES

- Joseph Hong not present. Mr. Brenner stated there is a five year rule issue in this case and that the availability of one of his witnesses is an issue as well. COURT ORDERED, trial date VACATED and RESET.

11/21/19 1:00 PM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	October 31, 2019
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)	
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October 31, 2019	11:00 AM	Pretrial/Calendar Call
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HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: April Watkins

RECORDER: Kaihla Berndt

REPORTER:

PARTIES

PRESENT: Garner, Rex D. Attorney

JOURNAL ENTRIES

- Mr. Garner stated Mr. Hong contacted him, advised he could not make it and have matter reset where it can go. Colloquy. Mr. Garner stated he may have an issue with Mr. Young being available. Further colloquy. COURT ORDERED, trial date VACATED and RESET.

1/14/20 1:00 PM BENCH TRIAL - FIRM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	December 19, 2019
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)	
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December 19, 2019 11:00 AM Pretrial/Calendar Call

HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: Louisa Garcia

RECORDER: Kaihla Berndt

REPORTER:

PARTIES

PRESENT: Garner, Rex D. Attorney

JOURNAL ENTRIES

- Counsel announced ready and estimated two days for trial. COURT ORDERED, trial date STANDS.

1/14/20 1:00 PM BENCH TRIAL (FIRM)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	January 14, 2020
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)
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January 14, 2020 1:00 PM Bench Trial - FIRM

HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: Shannon Reid

RECORDER: Kaihla Berndt

REPORTER:

PARTIES

PRESENT:	Garner, Rex D. Hong, Joseph Y.	Attorney Attorney
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JOURNAL ENTRIES

- Opening Statements by Mr Hong. Mr. Hong made an Oral Motion for a Directed Verdict. Upon Court's inquiry, counsel agreed to prepare and file supplemental briefings based on Mr. Hong's Oral Motion for a Directed Verdict by the end of the day. Opening Statement by Mr. Garner. Testimony and exhibits presented. (See worksheets). COURT ORDERED, matter CONTINUED. Evening Recess.

CONTINUED TO: 01/15/2020 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	January 15, 2020
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)
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January 15, 2020 9:30 AM Bench Trial - FIRM

HEARD BY: Bare, Rob **COURTROOM:** RJC Courtroom 03C

COURT CLERK: Shannon Reid

RECORDER: Kaihla Berndt

REPORTER:

PARTIES

PRESENT:	Garner, Rex D. Hong, Joseph Y.	Attorney Attorney
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JOURNAL ENTRIES

- Court advised it was in receipt of the Motion for Judgment As A Matter Of Law Pursuant To NRCP Rule 50 filed by Mr. Hong. Testimony and exhibits presented (See worksheets.) Closing arguments by Mr. Hong and Mr. Garner. Court advised the decision on the Motion for Judgment would be pending to allow the Court to review Mr. Garner's Trial Brief and case citation, and ORDERED, matter UNDER ADVISEMENT. COURT FURTHER ORDERED supplemental briefing due on 01/29/2020 by 5:00 pm and matter SET for Decision with no further argument from counsel.

02/05/2020 11:00 AM DECISION

DISTRICT COURT
CLARK COUNTY, NEVADA

Title to Property

COURT MINUTES

February 05, 2020

A-13-685203-C Melissa Lieberman, Plaintiff(s)
vs.
Mediera Canyon Community Association, Defendant(s)

February 05, 2020 11:00 AM Decision

HEARD BY: Bare, Rob

COURTROOM: RJC Courtroom 03C

COURT CLERK: Shannon Reid

RECORDER: Kaihla Berndt

REPORTER:

PARTIES

PRESENT: Garner, Rex D. Attorney
Hong, Joseph Y. Attorney

JOURNAL ENTRIES

- COURT ORDERED, NV Eagles, LLC's Motion For Judgment As A Matter Of Law Pursuant to NRCp Rule 50 DENIED.

As to the Bench Trial, Court stated Findings in favor of the Plaintiff. Mr. Hong to prepare the Order and circulate it to Mr. Garner for review as to form and content.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	December 15, 2021
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A-13-685203-C	Melissa Lieberman, Plaintiff(s) vs. Mediera Canyon Community Association, Defendant(s)
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December 15, 2021 9:00 AM Status Check

HEARD BY: Jones, David M **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Michaela Tapia

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

PRESENT:	Morgan, Melanie D. Wright, John H.	Attorney Attorney
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JOURNAL ENTRIES

- At the request of parties, COURT ORDERED, briefing schedule SET as follows: briefing due 1/21/22, reply due 2/4/22. FURTHER, matter SET for hearing.

2/10/22 9:00 AM HEARING

February 10, 2022

A-13-685203-C Melissa Lieberman, Plaintiff(s)
vs.
Mediera Canyon Community Association, Defendant(s)

PRESENT: Wright, John H. Attorney
Xara, Lilith Vala Attorney

Minutes Date: October 17, 2013

DISTRICT COURT
CLARK COUNTY, NEVADA

Title to Property

COURT MINUTES

February 14, 2022

A-13-685203-C Melissa Lieberman, Plaintiff(s)
vs.
Mediera Canyon Community Association, Defendant(s)

February 14, 2022 3:00 AM Minute Order

HEARD BY: Jones, David M **COURTROOM:** Chambers

COURT CLERK: Michaela Tapia

RECORDED:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Order Regarding Supplemental Briefing

After further consideration of the filed papers and oral arguments, the Court hereby finds in favor of Nevada Association Services. The attempted tender in this situation was never for the correct amount, so even by Bank of America's definition of a tender there was never a valid tender.

Counsel for Nevada Association Services to prepare the order.

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /mt

EXHIBIT(S) LIST

Case No.: A-13-685203-C
 Dept. No.: XXXII

Civil Trial Date: January 14, 2020

Judge: Rob Bare

Court

Clerk:

SHANNON REED

Recorder:

KATHLA BERNDT

Counsel for Plaintiff:

Joseph Y Hong, Esq.

Plaintiff:

NV EAGLES LLC

vs.

Defendant:

MADEIRA CANYON HOMEOWNERS' ASSOCIATION et al

Counsel for Defendant:

Bank of America, N.A.
Bank of New York Mellon

Darren Brenner, Esq., Rex Garner, Esq.

CIVIL TRIAL BEFORE THE COURT

JOINT EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
1	Deed of Trust BANA000001-000019	1-14-20	STIP	1-14-20
2	Assignment of Deed of Trust BANA000023-000024			
3	Notice of Delinquent Assessment Lien BANA000020			
4	Notice of Default and Election to Sell BANA000021-000022			
5	Notice of Foreclosure Sale BANA000025-000026			
6	Foreclosure Deed BANA000027-000029			
7	Grant, Bargain Sale Deed BANA000030-000033			
8	Covenants, Conditions, and Restrictions BANA000037-0000108			
9	Miles Bauer Tender Affidavit BANA000127-000143			
10	Miles Bauer Letter Affidavit BANA000144-000149			
11	NAS Collection File BANA000150-000337			
12	Expert Report of Matthew Lubawy BANA001155-001184	1-14-20	STIP	1-14-20

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
13	Pleadings and Order from Case No. 2:11-cv-00167 BANA000715-000750; BANA000783-000819	1-14-20	STIP	1-14-20	WA
14	Briefing and Arbitration Award from NRED Case No. 12-58 BANA000994; BANA001011-001015; BANA001040-001061				WA
15	Payoff Statement BANA000109-000111				WA
16	Lis Pendens BANA000034-000036	1-14-20	STIP	1-14-20	WA



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

MELANIE D. MORGAN, ESQ.
1635 VILLAGE CENTER CIR., STE 200
LAS VEGAS, NV 89134

DATE: April 12, 2022
CASE: A-13-685203-C
C/W A-13-690944-C

RE CASE: MELISSA LIEBERMAN vs. MADEIRA CANYON HOMEOWNERS ASSOCIATION; BANK OF AMERICA, N.A.; UNDERWOOD PARTNERS, LLC

NOTICE OF APPEAL FILED: April 8, 2022

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 District 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):

BANK OF AMERICA, N.A., AND THE BANK OF NEW YORK MELLON, AS TRUSTEE'S NOTICE OF APPEAL; BANK OF AMERICA, N.A., AND THE BANK OF NEW YORK MELLON, AS TRUSTEE'S CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON POST-REMAND HEARING; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

MELISSA LIEBERMAN,

Plaintiff(s),

vs.

MADEIRA CANYON HOMEOWNERS
ASSOCIATION; BANK OF AMERICA, N.A.;
UNDERWOOD PARTNERS, LLC,

Defendant(s),

Case No: A-13-685203-C

Consolidated with A-13-690944-C

Dept No: XXIX

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 12 day of April 2022.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

