

1 **WO**

2

3

4

5

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8

9 Richard J. Jewett; Donna Farar Jewett,) No. CV 11-135-PHX-JAT

10 Plaintiffs,) **ORDER**

11 vs.)

12 Bank of America, N.A.,)

13 Defendant.)

14

15

16 Pursuant to the stipulation of the parties as entered into the record, and based on the
17 exhibits received in evidence, the argument of the parties, and the written filings by the
18 parties, the Court grants Plaintiffs’ motion for preliminary injunction (Doc. 10) as follows.¹

19 IT IS ORDERED that the Court finds that the lien which is Exhibit 8 in evidence is
20 invalid as envisioned in A.R.S. § 33-420(b) and based thereon, the Court grants the relief
21 specified in A.R.S. § 33-420(b) and orders Bank of America to immediately clear title to the
22 real property referred to in this record as the primary residence and located at 13918 North
23 98th Place, Scottsdale, Arizona further described as Assessor Parcel No. 217-50-783 and
24 further described as: Lot 49, of Madrid, according to the plat of record in the office of the
25 county recorder of Maricopa County in Book 622 of Maps, Page 33.

26

27

28 ¹ By the stipulation on the record, the parties agreed that Plaintiffs would not be required to post a bond.

1 IT IS FURTHER ORDERED that the title be cleared by Bank of America executing
2 the release documents evidenced in Exhibit 34² by 5:00 p.m. Friday, February 18, 2011.

3 IT IS FURTHER ORDERED that the Court finds that the relief requested and granted
4 by this Court is specifically provided for by statute in A.R.S. § 33-420(b) and to the extent
5 this is considered injunctive relief and to the extent it requires a finding of irreparable harm,
6 the Court finds it is presumed in the statutory section referenced.

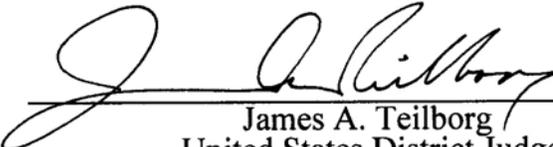
7 IT IS FURTHER ORDERED that Plaintiffs shall not encumber the secondary
8 residence at 14417 North 99th Street, Scottsdale, Arizona, Assessor Parcel No. 217-16-831
9 Lot 118, of Costa Verde, according to the Plat of Record in the Office of the County
10 Recorder of Maricopa County known as 14417 North 99th Street, and evidenced in Exhibit
11 4 in evidence, until they have caused to be executed and recorded a corrective deed of trust
12 securing Bank of America's interest in that property, which shall be entered within 30 days
13 from the date of this Order.

14 IT IS FURTHER ORDERED that by virtue of this the stipulation between the parties
15 and by virtue of this Court's order there is no waiver of the rights of the parties to pursue
16 their claims for damages.

17 IT IS FURTHER ORDERED that Defendant's oral motion to amend the answer is
18 denied as moot.

19 IT IS FURTHER ORDERED that Plaintiffs' oral motion to consolidate the Rule 65
20 hearing with a trial on the merits is denied.

21 DATED this 16th day of February, 2011.

22
23
24 
25 James A. Teilborg
26 United States District Judge

27 _____
28 ² A copy of which is attached.

CASE NO. CV 11-0135-PHX-JAT

Jewett, et al. v.

vs. Bank of America NA, et al.

DEFENDANT'S EXHIBIT 34

DATE: 2/16/11 IDEN.

DATE: _____ EVID.

BY: _____

Deputy Clerk

When recorded, return to:

Quarles & Brady LLP
Renaissance One
Two North Central Avenue
Phoenix, Arizona 85004-2391
Attention: Ryan S. Patterson, Esq.

DEED OF FULL RELEASE AND FULL RECONVEYANCE

Bank of America, NA, as Lender and beneficiary under that certain Deed of Trust ("Deed of Trust") executed by Richard J. Jewett and Donna Farrar NKA Donna J. Jewett, husband and wife, as Borrower and trustor, dated as of May 27, 2006, recorded on January 10, 2007, in the Official Records of Maricopa County, State of Arizona at Recorder's No. 2007-0041263, hereby releases and conveys to the person or persons legally entitled thereto, without covenant or warranty, express or implied, all right, title, interest and estate now held for the benefit of Lender and beneficiary thereunder in and to the real property described in the Deed of Trust.

IN WITNESS WHEREOF, these presents are executed as of the ___ day of February, 2011.

BANK OF AMERICA, NA, a national banking
association

By: _____
Name: _____
Its: _____

BENEFICIARY

STATE OF _____)
County of _____) ss.

This instrument was acknowledged before me on _____, 2011, by _____, the _____ of Bank of America, a national banking association, on behalf of thereof.

Notary Public

My Commission Expires:
