

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

EAGLE SPE NV 1, INC.,	
	Plaintiff,
v.	
SOUTHERN HIGHLANDS DEVELOPMENT CORP., <i>et al.</i> ,	
	Defendants.

Case No. 2:12-cv-00550-MMD-PAL

ORDER REGARDING  
SUPPLEMENTAL BRIEFING

Defendants inform the Court that there are pending cases on appeal with the Nevada Supreme Court presenting identical issues as this case. *See Sandpointe Apartments, LLC v. Eighth Judicial District Court of Nev., et al.*, case no. 59507; *Nielson v. Eighth Judicial District Court of Nev., et al.*, case no. 59823, *Branch Banking and Trust Company v. Nielson*, case no. 60256; *First Fin. Bank, NA v. Lane, et al.*, case no. 60927.

The issues presented in these appeals that are related to the questions in this case are:

- I. Did the Nevada State Legislature intend NRS § 40.459(1)(c) to apply to a deficiency judgment when the successor-creditor acquired the right to obtain the deficiency judgment before the statute’s effective date?
- II. Did the Legislature intend NRS § 40.459(1)(c) to apply to a deficiency judgment when the successor-creditor acquired the right to obtain the deficiency judgment before the foreclosure sale?
- III. Did the Legislature intend NRS § 40.459(1)(c) to apply to a deficiency judgment when the successor-creditor is the Federal Deposit Insurance

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Corporation (“FDIC”) or a successor-creditor which acquired the right to obtain the deficiency from the FDIC?


Further, this Court stayed *Branch Banking and Trust Co. v. Yoel Iny, et al.*, 2:11-cv-1777-MMD-VCF (dkt. no. 43) and *Branch Banking and Trust Co. v. Pebble Creek Plaza Pad*, 2:12-cv-01736-MMD-CWH (dkt. no. 15), because those cases raised the above issues currently in front of the Nevada Supreme Court.

Given Defendants’ representation to the Court and the Court’s decision to stay similar cases, the parties are HEREBY ORDERED to file supplemental briefing regarding the following:

- (1) What is the state of the proceedings on the three issues addressed above (I – III) before the Nevada Supreme Court?
- (2) Should this case be stayed in light of the foregoing discussion, and the Court’s discretion to stay cases where a Nevada Supreme Court’s pending decision will lend direction and clarity to the disputed matters in this case?

The parties must file supplemental briefs of no more than five (5) pages. The parties must submit their briefs to the Court on or before Wednesday, February 13, 2013.

DATED THIS 4<sup>th</sup> day of February 2013.

  
\_\_\_\_\_  
MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE