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6 **UNITED STATES DISTRICT COURT**
 7 **CLARK COUNTY, NEVADA**

8 FIRST 100, LLC, a Nevada Limited Liability
 Company,
 9
 10 Plaintiff,
 11 vs.
 12 WELLS FARGO BANK, N.A., a National
 Association; MTC FINANCIAL INC. d/b/a
 13 TRUSTEE CORPS, a Foreign corporation;
 14 CITY OF LAS VEGAS, a Political Subdivision;
 15 DOES I through X; and ROE
 CORPORATIONS I through X, inclusive,
 16
 17 Defendants.

Case No.: 2:13-CV-00431-JCM-PAL

**DEFENDANT, WELLS FARGO BANK,
 N.A.'S, ORDER DENYING THE
 PLAINTIFF'S EMERGENCY MOTION
 FOR TEMPORARY RESTRAINING
 ORDER**

18
 19 The Defendant, Wells Fargo Bank, N.A. (hereinafter "Wells Fargo"), by and through its
 20 attorney of record, Chelsea A. Crowton, Esq. of the law firm of Wright, Finlay & Zak, LLP, and
 21 the Plaintiff, First 100, LLC, by and through their attorney of record, Luis A. Ayon, Esq. of the
 22 law firm of Maier Gutierrez Ayon, having appeared on April 19, 2013 for the hearing on the
 23 Plaintiff's Emergency Motion for Temporary Restraining Order. The Court having heard
 24 arguments from all parties in the case, the Court having reviewed the Emergency Motion for
 25 Temporary Restraining Order and the Response to the Emergency Motion for Temporary
 26 Restraining Order, and good cause appearing, hereby rules as follows:

27 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Plaintiff's
 28 Emergency Motion for Temporary Restraining Order is **denied**.

1 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED** that Nevada
2 is a Race-Notice State and that based on the fact that Wells Fargo Bank, N.A.'s April 2006 Deed
3 of Trust was recorded prior to the Notice of Delinquent Lien filed by the Homeowner's
4 Association, Wells Fargo's April 2006 Deed of Trust has priority over the Homeowner's
5 Association Lien.

6 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED** that the
7 Plaintiff has failed to state a likelihood of success on the merits of the underlying Complaint,
8 based on the fact that the language in N.R.S. 116.3116(2)(c) does not extinguish a first, position
9 Deed of Trust and that the language in N.R.S. 116.3116(2)(c) is solely a payment priority lien for
10 nine (9) months of assessments, dues, and expenses owed to the Homeowner's Association.

11 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED** that the
12 Plaintiff took title to the Property subject to Wells Fargo's April 2006 Deed of Trust, which was
13 executed by Jan Werner on April 24, 2006 and recorded in the Clark County Recorder's Office
14 as Book and Instrument umber 20060501-0004562.

15 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED** that under
16 N.R.S. 116.3116(2)(b), Wells Fargo's April 2006 Deed of Trust has priority in the chain of title
17 for the Property located at 220 Newport Lane Unit #201, Las Vegas, Nevada 89107.

18 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED** that Wells
19 Fargo's first, position Deed of Trust survived the foreclosure sale by Meadows Condominium
20 Unit Owners Association.

21 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED** that due to
22 the unlikelihood of success on the merits of the underlying Complaint and denial of the
23 Emergency Motion for Temporary Restraining Order, the Defendant, Wells Fargo Bank, N.A.,
24 can lawfully proceed with a foreclosure sale on the Property located at 220 Newport Lane Unit
25 #201, Las Vegas, Nevada 89107.

26 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED** that the
27 Plaintiff has a temporary, possessory interest in the Property, subject to Wells Fargo's 2006 Deed
28 of Trust.

1 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED** that the
2 Plaintiff merely took as much interest in the Property as the Borrower, Jane Werner, possessed
3 prior to the Homeowner's Association foreclosure sale, wherein Jan Werner's interest was
4 subject to Wells Fargo's 2006 Deed of Trust.

5 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED** that the
6 argument regarding N.R.S. 116.3116(2)(c) extinguishing Wells Fargo's 2006 Deed of Trust
7 would be a violation of Wells Fargo's State and Federal due process rights.

8 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED** that the
9 Lien created under N.R.S. 116.3116(2)(c) is junior to Wells Fargo's 2006 Deed of Trust and
10 cannot legally extinguish Wells Fargo's first, priority Lien.

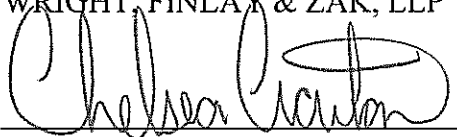
11 **IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED** that the
12 Nevada Real Estate Division Advisory Opinion 13-01 is not binding law in Nevada and
13 dismissed as irrelevant to the Plaintiff's situation.

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15 DATED April 30, 2013.

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U.S. DISTRICT COURT JUDGE

19 Respectfully Submitted:

20 WRIGHT, FINLAX & ZAK, LLP

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22 _____
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