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16 **UNITED STATES DISTRICT COURT**  
 17 **DISTRICT OF NEVADA**

18 SKYLIGHTS LLC,  
 Plaintiff,  
 19 vs.  
 20 DAVID BYRON; et al.,  
 21 Defendants.  
 22 and  
 23 FEDERAL HOUSING FINANCE AGENCY,  
 as Conservator for the Federal National  
 24 Mortgage Association,  
 25 Intervenor.

CASE NO. 2:15-cv-00043-GMN-VCF

**STIPULATION AND [PROPOSED]  
 ORDER SEEKING A FINAL JUDGMENT  
 PURSUANT TO RULE 54(B)**

1 FEDERAL NATIONAL MORTGAGE  
2 ASSOCIATION,  
3 Counterclaimant,  
4 and  
5 FEDERAL HOUSING FINANCE AGENCY,  
6 as Conservator for the Federal National  
7 Mortgage Association,  
8 Intervenor,  
9 vs.  
10 SKYLIGHTS LLC; THE FALLS AT  
11 RHODES RANCH CONDOMINIUM  
12 OWNERS ASSOCIATION, INC.,  
13 Counter-defendants.

14 Plaintiff Skylights LLC, Defendant Federal National Mortgage Association (“Fannie  
15 Mae”), Intervenor Federal Housing Finance Agency (“FHFA”), as Conservator for Fannie Mae,  
16 and Counter-Defendant The Falls at Rhodes Ranch Condominium Owners Association, Inc.  
17 (“HOA”), hereby jointly request that the Court amend the judgment to indicate it is final and  
18 stipulate the following:

- 19 1. On December 5, 2014, Plaintiff filed an action in state court asserting claims for quiet  
20 title against Fannie Mae. Dkt. No. 1-1.
- 21 2. In their responsive pleadings, Fannie Mae and FHFA each filed two substantively  
22 identical counterclaims:
  - 23 a. A quiet title counterclaim against Plaintiff; and
  - 24 b. A declaratory judgment counterclaim against both Plaintiff and the HOA. *See*  
25 Dkt. Nos. 6, 14.
- 26 3. The forms of relief associated with these two counterclaims were declarations that
  - 27 a. 12 U.S.C. § 4617(j)(3) preempts a Nevada statute that could otherwise permit an  
28 HOA foreclosure sale to extinguish Fannie Mae and FHFA’s property interest;
  - b. the HOA foreclosure sale at issue here did not extinguish Fannie Mae and  
FHFA’s interest in the Property; and

1 c. the HOA foreclosure sale did not convey the subject property free and clear to  
2 Plaintiff. *Id.*

3 4. There are no longer any parties remaining in the case other than Plaintiff, the HOA,  
4 FHFA, and Fannie Mae. The Court dismissed Plaintiff's claims against  
5 CitiMortgage, Inc. on April 16, 2015. (Dkt. No. 34.) The Byrons were dismissed  
6 from the action on June 20, 2015. (Dkt. No. 47.) CCSF never appeared in the case.

7 5. On April 16, 2015, FHFA and Fannie Mae filed a Joint Motion for Summary  
8 Judgment. *See* Dkt. No. 26. The summary judgment motion sought the relief  
9 discussed in both the quiet title and declaratory judgment counterclaims asserted by  
10 FHFA and Fannie Mae—a declaration that (1) 12 U.S.C. § 4617(j)(3) preempts any  
11 Nevada law that could permit an HOA foreclosure sale to extinguish a property  
12 interest of Fannie Mae while it is under FHFA's conservatorship; and (2) the HOA  
13 Sale did not extinguish Fannie Mae's interest in the Property, and thus Plaintiff took  
14 an interest in the Property subject to the Deed of Trust. *See* MSJ at 12-13. This  
15 requested relief was materially the same as requested in Fannie Mae and FHFA's  
16 quiet title and declaratory relief counterclaims, providing for the opposite declaration  
17 as that requested by Plaintiff in its quiet title claims.

18 6. On June 24, 2015, this Court entered an Order granting the summary judgment  
19 motion of FHFA and Fannie Mae. *Skylights LLC v. Byron*, No. 2:15-CV-00043-  
20 GMN-VCF, 2015 WL 3887061 (D. Nev. June 24, 2015) (Dkt. No. 48). The Order  
21 held, among other things, that (1) "the HOA's foreclosure sale ... did not extinguish  
22 Fannie Mae's interest in the Property secured by the Deed of Trust;" (2) "the HOA's  
23 foreclosure sale ... did not ... convey the Property free and [clear] to Skylights; and  
24 (3) Plaintiff "purchased real property subject to FHFA's lienhold interest." *Id.* at \*7  
25 n.4, 12.

26 7. The Order denied the relief requested in Plaintiff's quiet title claims, because it held  
27 that the Deed of Trust was not extinguished. Indeed, the Order explicitly stated that  
28

1 summary judgment was granted to Fannie Mae and FHFA “on Skylights’s claims for  
2 quiet title.” *Id.* at \*12. This Order was followed by a Judgment. (Dkt. No. 49.)

3 8. On July 15, 2015, FHFA and Fannie Mae filed a Motion to Correct the Judgment,  
4 asking that the Judgment reflect the declaration in the Order, clarify that the Court  
5 resolved all outstanding claims and counterclaims, and confirm that it should be  
6 treated as a final and appealable judgment. (Dkt No. 52.) Among other things,  
7 FHFA and Fannie Mae argued that the Order resolved their quiet title counterclaims  
8 because the conclusion of the Order granted the relief requested in that counterclaim,  
9 *i.e.* a declaration that Plaintiff’s interest was purchased “subject to FHFA’s lienhold  
10 interest.” No party opposed the motion.

11 9. On August 24, 2015, the Court partially granted FHFA and Fannie Mae’s Motion to  
12 Correct the Judgment, and ordered that the judgment contain the declaration  
13 requested in FHFA and Fannie Mae’s counterclaims for declaratory judgment. (Dkt.  
14 No. 58.) The Court did not grant the motion insofar as it requested that the judgment  
15 reflect that FHFA and Fannie Mae were granted summary judgment on their quiet  
16 title counterclaims. The Court ordered that FHFA and Fannie Mae file a status report  
17 regarding their quiet title counterclaim and whether discovery was warranted.

18 10. On September 4, 2015, FHFA and Fannie Mae filed the requested status report,  
19 expressing their view that no further discovery was necessary with regard to their  
20 quiet title counterclaims because the declaration articulated in the Court’s June 24,  
21 2015 Order already provided the relief requested in their quiet title counterclaims. No  
22 party filed an opposition to that report.

23 11. On September 23, 2015, Plaintiff filed a Notice of Appeal of the Court’s June 24,  
24 2015 Order. (Dkt. No. 60.)

25 12. On September 25, 2015, the Clerk of Court for the Ninth Circuit ordered that Plaintiff  
26 show cause why the appeal should not be dismissed for lack of jurisdiction because  
27 the quiet title counterclaims had not yet been resolved. *See* Clerk Order, *Skylights v.*  
28 *Byron*, No. 15-16904 (9th Cir.) (Dkt. No. 2).

1 13. On October 23, 2015, Plaintiff filed a response to the order to show cause. *See*  
2 Response, *Skylights v. Byron*, No. 15-16904 (9th Cir.) (Dkt. No. 4). In its response,  
3 Plaintiff argues, among other things, that the Court's June 24, 2015 Order is  
4 effectively final because the relief requested in both of FHFA and Fannie Mae's  
5 counterclaims was the same as that granted by this Court.

6 14. FHFA and Fannie Mae do not intend to oppose Plaintiff's response to the Clerk's  
7 Order but rather file a short explanation of the status of this case to the Clerk.

8 15. The Parties respectfully request that the Court amend its Judgment to reflect that it is  
9 final and it resolves all claims and counterclaims in this case, including FHFA and  
10 Fannie Mae's quiet title counterclaims. Whether or not Plaintiff is correct in its  
11 argument that the Court's June 24, 2015 Order is already effectively final and  
12 appealable, any doubt that the Ninth Circuit lacks jurisdiction over Plaintiff's appeal  
13 would be dispelled if this Court were to revise the Judgment.

14 Nothing in this stipulation is intended to indicate that Plaintiff or the HOA waive their  
15 right to appeal the Court's judgment in favor of FHFA and Fannie Mae on any and all of the  
16 claims and counterclaims asserted in this case.

17 DATED this 9<sup>th</sup> day of November, 2015.

18 **ALDRIDGE PITE, LLP**

**FENNEMORE CRAIG, P.C.**

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**[PROPOSED] ORDER**

Pursuant to the Stipulation above, and for good cause appearing therefor,

**IT IS HEREBY ORDERED** that the Judgment issued on June 24, 2015, (ECF No. 49),  
be amended to reflect that it is a final judgment that resolves all claims and counterclaims in this  
case in favor of Fannie Mae and FHFA.

Dated this 23 day of November, 2015.

  
UNITED STATES DISTRICT COURT JUDGE