1	Leslie Bryan Hart, Esq. (SBN 4932)	
2	John D. Tennert, Ésq. (SBN 11728) FENNEMORE CRAIG, P.C.	
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4	Tel: 775-788-2228 Fax: 775-788-2229 lhart@fclaw.com; jtennert@fclaw.com	
5	(<i>Pro Hac Vice</i> to be submitted)	
6	Asim Varma, Esq. Howard N. Cayne, Esq.	
	Michael A.F. Johnson, Esq. ARNOLD & PORTER LLP	
7	555 12th Street NW	
8	Washington, DC 20004 Tel: (202) 942-5000 Fax: (202) 942-5999	
9	Asim.Varma@aporter.com; hcayne@aporter.com	m; Michael.Johnson@aporter.com;
10	Attorneys for Proposed Intervenor Federal Housi	ing Finance Agency
11	UNITED STATES I DISTRICT (
12	LN MANAGEMENT LLC SERIES 2543	CASE NO. 2:15-cv-00112-MMD-CWH
13	CITRUS GARDEN,	
14	Plaintiff, v.	STIPULATION TO ENTRY OF ORDER AND PROPOSED ORDER PERMITTING
15	MARCELLE GELGOTAS, an individual;	FEDERAL HOUSING FINANCE AGENCY TO INTERVENE AS
16	MICHELLE ROCK, an individual; MARK ROCK, an individual; FEDERAL NATIONAL	CONSERVATOR OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION
17	MORTGAGE ASSOCIATION; CITRUS GARDENS HOMEOWNERS	NATIONAL MORIGAGE ASSOCIATION
18	ASSOCIATION, a Nevada Non-Profit Corporation; DOES 1 through 10, inclusive,	
19	Defendants.	
20	FEDERAL NATIONAL MORTGAGE ASSOCIATION,	
21	Counterclaimant,	
22	v. LN MANAGEMENT LLC SERIES 2543	
23	CITRUS GARDEN, a Nevada LLC; GREEN	
24	VALLEY RANCH COMMUNITY ASSOCIATION, INC., a Nevada non-profit	
25	corporation; DOES 1 through 10, inclusive; ROES Business Entities 1 through 10,	
26	inclusive,	
27	Counter-Defendants.	
28		
FENNEMORE CRAIG, P.C. 300 E. SECOND ST. SUITE 1510 RENO, NEVADA 89501 (775) 788-2200		

Dockets.Justia.com

1	1. The Federal Housing Finance Agency ("FHFA" or "Conservator"), as
2	Conservator for Defendant Federal National Mortgage Association ("Fannie Mae"), seeks to
3	intervene in the above-captioned action pursuant to 12 U.S.C. § 4617(b)(2)(A)(i) and Fed. R.
4	Civ. P. 24.
5	2. On September 6, 2008, FHFA's Director appointed the FHFA Conservator of
6	Fannie Mae and the Federal Home Loan Mortgage Corporation in accordance with the Housing
7	and Economic Recovery Act of 2008, Pub. L. 110-289, 122 Stat. 2654 (codified at 12 U.S.C.
8	§ 4617) ("HERA"), and the Federal Housing Enterprises Financial Safety and Soundness Act of
9	1992 (12 U.S.C. § 4501, et. seq.).
10	3. The FHFA, as Conservator, has succeeded to "all rights, titles, powers, and
11	privileges" of Fannie Mae, including its right to sue and be sued in the federal courts. See
12	12 U.S.C. § 4617(b)(2)(A)(i).
13	4. Accordingly, FHFA has an unconditional federal statutory right to intervene in
14	this matter, see Fed. R. Civ. P. 24(a)(1), and to assert its interests in a manner consistent with the
15	Conservator's powers and duties.
16	5. Pursuant to Fed. R. Civ. P. 24(c), FHFA attaches as Exhibit A its intended
17	Answer.
18	STIPULATION
19	FHFA and Plaintiff LN Management LLC Series 2543 Citrus Garden, through their
20	attorneys of record, hereby stipulate and request that the Court make this stipulation an order of
21	the Court:
22	///
23	
24	
25	
26	
27	///
28 FENNEMORE CRAIG, P.C.	
300 E. SECOND ST. SUITE 1510	

1	The FHFA shall be permitted to intervene U.S.C. § 4617(b)(2)(A)(i) and Fed. R. Ci	e in the above-referenced action pursuant to 12 y. P. 24.
2		
3	DATED this 13 th day of February, 2015.	
4		
5	By: <u>/s/ Kerry Faughman</u>	FENNEMORE CRAIG, P.C.
6	Kerry Faughman, Esq. Nevada Bar No. 12204	By: <u>/s/ Leslie Bryan Hart</u>
7	P.O.Box 335361 North Las Vegas, NV 89086	Leslie Bryan Hart, Esq. (SBN 4932) John D. Tennert, Esq. (SBN 11728)
8	Tel. 702-301-3096 Fax. 702-331-4222	300 E. Second St., Suite 1510 Reno, Nevada 89501
9	Attorneys for Plaintiff LN Management LLC Series 2543 Citrus Garden	Tel: 775-788-2228 Fax: 775-788-2229 lhart@fclaw.com; jtennert@fclaw.com
10	Rue /a/ Calt P. Dadwill	and
11	By: <u>/s/ Colt B. Dodrill</u> Colt B. Dodrill, Esq.	(<i>Pro Hac Vice</i> to be submitted)
12	Nevada Bar No. 9000 WOLFE & WYMAN LLP	ARNOLD & PORTER LLP Asim Varma, Esq.
13	980 Kelly Johnson Drive, Ste 140 Las Vegas, Nevada 89119	Howard N. Cayne, Esq. Michael A.F. Johnson, Esq.
14	Tel: (702) 476-0100 Fax: (702) 476-0101	555 12th Street NW Washington, DC 20004
15	cbdodrill@wolfewyman.com Attorneys for Federal National Mortgage	Tel:(202) 942-5000Fax: (202)942-5999 Asim.Varma@aporter.com;
16	Association	hcayne@aporter.com; Michael.Johnson@aporter.com;
17		Attorneys for Proposed Intervenor Federal Housing Financing Agency
18		
19	ORI	DER
20	IT IS SO ORDERED.	
21		1. la
22		
23		ITED STATES DISTRICT COURT JUDGE
24	DA	TED:February 17, 2018
25	10061370.1/038236.0001	
26		
27		
28		
FENNEMORE CRAIG, P.C. 300 E. SECOND ST. SUITE 1510 RENO, NEVADA 89501 (775) 788-2200	3	3

Exhibit A

Exhibit A

(ase 2:15-cv-00112-MMD-CWH	Document 15-1	Filed 02/13/15	Page 2 of 10
1 2 3 4 5 6 7	Leslie Bryan Hart, Esq. (SBN 493 John D. Tennert, Esq. (SBN 11728 FENNEMORE CRAIG, P.C. 300 E. Second St., Suite 1510 Reno, Nevada 89501 Tel: 775-788-2228 Fax: 775-788 <i>lhart@fclaw.com; jtennert@fclaw</i> (<i>Pro Hac Vice</i> to be submitted) Asim Varma, Esq. Howard N. Cayne, Esq. Michael A.F. Johnson, Esq. ARNOLD & PORTER LLP 555 12th Street NW	2) 8) -2229		
8 9	Washington, DC 20004 Tel: (202) 942-5000 Fax: (202) 9 Asim.Varma@aporter.com; hcayn		Aichael.Johnson@	aporter.com;
10	Attorneys for Proposed Intervenor	Federal Housing	Finance Agency	
11	UNIT	ED STATES DIS DISTRICT OF N		
12	LN MANAGEMENT LLC SERIE	ES 2543 CA	ASE NO. 2:15-cv	-00112-MMD-CWH
13 14	CITRUS GARDEN Plaintiff,		ISWER AND CO	UNTERCLAIMS BY
15	VS.	PR	ROPOSED INTEL CDERAL HOUSI	RVENOR THE
16	MARCELLE GELGOTAS; MICH ROCK; MARK ROCK; FEDERA NATIONAL MORTGAGE ASSC	L CLATION: FE	DERAL NATIO	SERVATOR FOR THE NAL MORTGAGE
17	CITRUS GARDENS HOMEOWN ASSOCIATION; and DOES 1 thr inclusive,	NERS	SOCIATION	
18	Defendants.			
19	FEDERAL NATIONAL MORTG ASSOCIATION,	AGE		
20	Counterclai	mant		
21	VS.			
22	LN MANAGEMENT LLC SERIE CITRUS GARDEN; GREEN VA			
23 24	RANCH COMMUNITY ASSOCI INC.; DOES 1 through 10, inclusi	IATION,		
	Business Entities 1 through 10, ind	clusive,		
25	Counter-Defendant	S.		
26 27				
27				
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1	Simultaneously with this Answer, the Federal Housing Finance Agency ("FHFA"), in its
2	capacity as Conservator for the Federal National Mortgage Association ("Fannie Mae"), is filing,
3	along with the other parties to this action, a joint stipulation that FHFA be permitted to intervene
4	in this action pursuant to Federal Rule of Civil Procedure 24. In accordance with Rule 24(c)'s
5	
6	requirement that a motion to intervene "be accompanied by a pleading that sets out the claim or
7	defense for which intervention is sought, FHFA submits this Answer to respond as follows to the
8	Complaint filed by Plaintiff LN Management LLC Series 2543 Citrus Garden ("Plaintiff").
9	PARTIES, JURISDICTION AND VENUE
10	1. FHFA admits the allegations of Paragraph 1 of the Complaint.
11 12	2. FHFA is without knowledge as to the allegations of Paragraph 2 of the
12	Complaint, and on that basis denies them.
13	3. FHFA is without knowledge as to the allegations of Paragraph 3 of the Complaint,
15	and on that basis denies them.
16	4. FHFA is without knowledge as to the allegations of Paragraph 4 of the Complaint,
17	and on that basis denies them.
18	5. FHFA is without knowledge as to the allegations of Paragraph 6 of the Complaint,
19	and on that basis denies them.
20	6. FHFA denies the allegations of Paragraph 6 of the Complaint.
21	7. FHFA admits the allegations of Paragraph 7 of the Complaint.
22 23	8. FHFA is without knowledge as to the allegations of Paragraph 8 of the Complaint,
23 24	and on that basis denies them.
25	GENERAL ALLEGATIONS
26	
27	9. The allegations of Paragraph 7 of the Complaint constitute a conclusion of law as
28	to which no response is required. To the extent a response is required, FHFA denies them.
FENNEMORE CRAIG, P.C. 300 E. SECOND ST. SUITE 1510 RENO, NEVADA 89501	10031111.1/038236.0001 2
RENO, NEVADA 89501 (775) 788-2200	

@ase 2:15-cv-00112-MMD-CWH Document 15-1 Filed 02/13/15 Page 4 of 10

1	10. In answering Paragraph 10 of the Complaint, FHFA admits only that the
2	referenced deed was recorded in the official records of the Clark County Recorder's Office as
3	book and instrument number 201308210000280 and that the referenced deed speaks for itself.
4	FHFA denies the remainder of the allegations of Paragraph 10 of the Complaint.
5	11. In answering Paragraph 11 of the Complaint, FHFA admits only that Defendant
6 7	Fannie Mae has had, and continues to have, an interest in the Property. FHFA specifically
8	denies that Fannie Mae's interest in the Property was extinguished. FHFA is without knowledge
9	as the remainder of the allegations contained in Paragraph 11 of the Complaint and therefore
10	denies them.
11	
12	12. FHFA denies the allegations of Paragraph 12 of the Complaint.
13	13. FHFA is without knowledge as to the allegations of Paragraph 13 of the
14	Complaint, and on that basis denies them.
15	FIRST CLAIM FOR RELIEF
16	(Quiet Title)
16 17	14. FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated
	14. FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated herein.
17 18 19	 14. FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated herein. 15. FHFA denies the allegations of Paragraph 15 of the Complaint.
17 18 19 20	14. FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated herein.
17 18 19 20 21	 14. FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated herein. 15. FHFA denies the allegations of Paragraph 15 of the Complaint.
 17 18 19 20 21 22 	 14. FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated herein. 15. FHFA denies the allegations of Paragraph 15 of the Complaint. 16. FHFA denies the allegations of Paragraph 16 of the Complaint.
 17 18 19 20 21 22 23 	 14. FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated herein. 15. FHFA denies the allegations of Paragraph 15 of the Complaint. 16. FHFA denies the allegations of Paragraph 16 of the Complaint. 17. FHFA denies the allegations of Paragraph 17 of the Complaint.
 17 18 19 20 21 22 23 24 	 FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated herein. FHFA denies the allegations of Paragraph 15 of the Complaint. FHFA denies the allegations of Paragraph 16 of the Complaint. FHFA denies the allegations of Paragraph 17 of the Complaint. FHFA denies the allegations of Paragraph 17 of the Complaint. In answering Paragraph 18 of the Complaint, FHFA admits only that Fannie
 17 18 19 20 21 22 23 24 25 	 14. FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated herein. 15. FHFA denies the allegations of Paragraph 15 of the Complaint. 16. FHFA denies the allegations of Paragraph 16 of the Complaint. 17. FHFA denies the allegations of Paragraph 17 of the Complaint. 18. In answering Paragraph 18 of the Complaint, FHFA admits only that Fannie Mae's lien was not extinguished. The remainder of the allegations of Paragraph 18 constitute a
 17 18 19 20 21 22 23 24 	 14. FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated herein. 15. FHFA denies the allegations of Paragraph 15 of the Complaint. 16. FHFA denies the allegations of Paragraph 16 of the Complaint. 17. FHFA denies the allegations of Paragraph 17 of the Complaint. 18. In answering Paragraph 18 of the Complaint, FHFA admits only that Fannie Mae's lien was not extinguished. The remainder of the allegations of Paragraph 18 constitute a conclusion of law to which no response is required. To the extent a response to the allegations is
 17 18 19 20 21 22 23 24 25 26 	 14. FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated herein. 15. FHFA denies the allegations of Paragraph 15 of the Complaint. 16. FHFA denies the allegations of Paragraph 16 of the Complaint. 17. FHFA denies the allegations of Paragraph 17 of the Complaint. 18. In answering Paragraph 18 of the Complaint, FHFA admits only that Fannie Mae's lien was not extinguished. The remainder of the allegations of Paragraph 18 constitute a conclusion of law to which no response is required. To the extent a response to the allegations is
 17 18 19 20 21 22 23 24 25 26 27 	 14. FHFA repeats its responses to Paragraphs 1 through 13 above, as if fully stated herein. 15. FHFA denies the allegations of Paragraph 15 of the Complaint. 16. FHFA denies the allegations of Paragraph 16 of the Complaint. 17. FHFA denies the allegations of Paragraph 17 of the Complaint. 18. In answering Paragraph 18 of the Complaint, FHFA admits only that Fannie Mae's lien was not extinguished. The remainder of the allegations of Paragraph 18 constitute a conclusion of law to which no response is required. To the extent a response to the allegations is

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1	SECOND CLAIM FOR RELIEF
2	(Declaratory Relief)
3	19. FHFA repeats its responses to Paragraphs 1 through 18 above, as if fully stated
4	herein.
5	20. FHFA denies the allegations in Paragraph 20 of the Complaint.
6	21. In answering Paragraph 21 of the Complaint, FHFA admits only that Fannie
7	Mae's lien was not extinguished. The remainder of the allegations of Paragraph 21 constitute a
8 9	conclusion of law to which no response is required. To the extent a response to the allegations is
10	required, FHFA denies them.
11	AFFIRMATIVE DEFENSES
12	FHFA's investigation of these claims is continuing. By this Answer, FHFA waives no
13	affirmative defenses and reserves its right to amend the Answer to insert any subsequently
14	discovered affirmative defenses.
15	FIRST AFFIRMATIVE DEFENSE
16 17	The Complaint fails to state a claim for which relief can be granted because, among other
18	reasons, Plaintiff's claim of free and clear title to the Property is barred by 12 U.S.C.
19	§ 4617(j)(3), which precludes an HOA sale from extinguishing Fannie Mae's interest in the
20	Property and preempts any state law to the contrary.
21	SECOND AFFIRMATIVE DEFENSE
22	Plaintiff's claims are barred by the doctrines of laches, estoppel, waiver, unjust
23	enrichment, and/or unclean hands.
24	
25	THIRD AFFIRMATIVE DEFENSE
26	The damages, if any, that were allegedly sustained by Plaintiff as a result of the acts
27	described in the Complaint were caused in whole or were contributed to in part by reason of the
28	100211111 1/028226 0001
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1	acts, omissions, negligence, and/or intentional misconduct of Plaintiff and counter-defendant
2	Green Valley Ranch Community Association (the "HOA")
3	FOURTH AFFIRMATIVE DEFENSE
4	The damages, if any, that were allegedly sustained by Plaintiff as a result of the acts
5	described in the Complaint were caused in whole or were contributed to in part by reason of the
6	
7	acts, omissions, negligence, and/or intentional misconduct of one or more third parties over
8	whom neither FHFA nor Fannie Mae had control.
9	FIFTH AFFIRMATIVE DEFENSE
10	Plaintiff has an adequate remedy at law and has, through its own acts and/or omissions,
11	failed to mitigate its damages, the existence of which are denied.
12	SIXTH AFFIRMATIVE DEFENSE
13	Plaintiff has failed to plead any alleged acts or omissions of FHFA or Fannie Mae
14 15	sufficient to warrant the consideration of general, expectation, consequential, or compensatory
15	damages.
17	SEVENTH AFFIRMATIVE DEFENSE
18	
19	Plaintiff is not entitled to equitable relief.
20	EIGHTH AFFIRMATIVE DEFENSE
20	Plaintiff failed to join one or more indispensable parties.
22	NINTH AFFIRMATIVE DEFENSE
23	FHFA and Fannie Mae breached no duty with regard to Plaintiff.
24	TEN AFFIRMATIVE DEFENSE
25	FHFA incorporates by reference those defenses enumerated in Rules 8 and 12 of the
26	Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation
27	
28	
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C	ase 2:15-cv-00112-MMD-CWH Document 15-1 Filed 02/13/15 Page 7 of 10
1	reveals the applicability of any such defenses, FHFA reserves the right to seek leave of court to
2	amend this Answer to assert the same.
3	COUNTERCLAIMS
4	FIRST COUNTERCLAIM
5	(Declaratory Judgment versus Plaintiff and Green Valley Ranch Community Association (the "HOA"))
6	
7	1. FHFA incorporates by reference the responses of all previous paragraphs, as if
8	fully set forth herein.
9	2. Pursuant to 28 U.S.C. § 2201 and NRS § 40.010, this Court has the power and
10	authority to declare FHFA and Fannie Mae's rights and interests in the Property.
11	3. Fannie Mae has a property interest in the Property through its interest in the Deed
12	of Trust.
13	4. The Federal Housing Finance Agency ("FHFA" or the "Conservator") is an
14	agency of the federal government of the United States of America and is also the Conservator for
15	Fannie Mae.
16 17	
17 18	5. The Conservator has succeeded by law to all of Fannie Mae's "rights, titles,
18	powers, and privileges." 12 U.S.C. § 4617(b)(2)(A)(i).
20	6. During the Conservatorship, "[n]o property of [FHFA] shall be subject to levy,
20	attachment, garnishment, foreclosure, or sale without the consent of the [FHFA], nor shall any
22	involuntary lien attach to the property of [FHFA]." 12 U.S.C. § 4617(j)(3).
23	7. Fannie Mae's property interest at issue is property of the Conservator. Therefore,
24	applying NRS Chapter 116 or other state law in a manner that extinguishes Fannie Mae's interest
25	in the Property would violate 12 U.S.C. § 4617(j)(3).
26	
27	
28	
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 28 U.S.C. § 2201 and NRS § 40.010, that Fannie Mae has an interest in a first position Deed of Trust which still encumbers the Property after the HOA Sale. 11. FHFA and Fannie Mae are entitled to a determination from this Court, pursuant of 28 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from extinguishing Fannie Mae's property interest. 13 14 <u>SECOND COUNTERCLAIM</u> (Quiet Title versus Plaintiff) 1. FHFA incorporates by reference the responses of all previous paragraphs, as if fully set forth herein. 2. Pursuant to 28 U.S.C. § 2201 and NRS § 40.010, this Court has the power and authority to resolve the Plaintiff's adverse claims in the Property. 	(Tase 2:15-cv-00112-MMD-CWH Document 15-1 Filed 02/13/15 Page 8 of 10
2 a superpriority lien to extinguish a property interest of Fannie Mae while it is under FHFA 3 conservatorship. 4 9. Pursuant to 12 U.S.C. § 4617(j)(3), the HOA Sale could not extinguish Fann 5 6 7 10. FHFA and Fannie Mae are entitled to a declaration from this Court, pursuant of 8 28 U.S.C. § 2201 and NRS § 40.010, that Fannie Mae has an interest in a first position Deed of 9 Trust which still encumbers the Property after the HOA Sale. 10 11. FHFA and Fannie Mae are entitled to a determination from this Court, pursuant of 28 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from 11 28 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from 12 extinguishing Fannie Mae's property interest. 13 ECOND COUNTERCLAIM 14 SECOND COUNTERCLAIM 15 . FHFA incorporates by reference the responses of all previous paragraphs, as if 16 fully set forth herein. 17 2. Pursuant to 28 U.S.C. § 2201 and NRS § 40.010, this Court has the power and 18 authority to resolve the Plaintiff's adverse claims in the Property through its interest in the Deed 19 authority to resolve the Plaintiff's adverse claims in the Property t	1	8 12 U.S.C. 8 4617(i)(3) preempts any state law that would permit a foreclosure on
 conservatorship. 9. Pursuant to 12 U.S.C. § 4617(j)(3), the HOA Sale could not extinguish Fann Mae's interest in the Deed of Trust. 10. FHFA and Fannie Mae are entitled to a declaration from this Court, pursuant of 28 U.S.C. § 2201 and NRS § 40.010, that Fannie Mae has an interest in a first position Deed of Trust which still encumbers the Property after the HOA Sale. 11. FHFA and Fannie Mae are entitled to a determination from this Court, pursuant of 28 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from 28 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from 28 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from 28 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from 28 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from 29 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from 20 and the true of the property interest. 30 authority to resolve the Plaintiff's adverse claims in the Property. 31. FAINE Mae has a property interest in the Property through its interest in the Deed of Trust. 41. Plaintiff claims an interest in the Property through a foreclosure deed that is adverse to Fannie Mae's interest. 42. Plaintiff claims an interest in the Deed of Trust encumbering the Property constitutes an interest in real property. 		
conservatorship. 4 9. Pursuant to 12 U.S.C. § 4617(j)(3), the HOA Sale could not extinguish Fann 5 Mae's interest in the Deed of Trust. 6 10. FHIFA and Fannie Mae are entitled to a declaration from this Court, pursuant in 7 28 U.S.C. § 2201 and NRS § 40.010, that Fannie Mae has an interest in a first position Deed of 9 Trust which still encumbers the Property after the HOA Sale. 10 11. FHFA and Fannie Mae are entitled to a determination from this Court, pursuant of 11 28 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from 11 28 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from 12 extinguishing Fannie Mae's property interest. 13 SECOND COUNTERCLAIM (Quiet Title versus Plaintiff) 14 SECOND COUNTERCLAIM (Quiet Title versus Plaintiff) 15 1. FHFA incorporates by reference the responses of all previous paragraphs, as if 16 fully set forth herein. 17 2. Pursuant to 28 U.S.C. § 2201 and NRS § 40.010, this Court has the power and 18 authority to resolve the Plaintiff's adverse claims in the Property through its interest in the Deed 19 authority to resolve the Plaintiff's adverse claims in the Property through a foreclosure deed that is <th></th> <th></th>		
5 Mae's interest in the Deed of Trust. 7 10. FHFA and Fannie Mae are entitled to a declaration from this Court, pursuant 1 8 28 U.S.C. § 2201 and NRS § 40.010, that Fannie Mae has an interest in a first position Deed 0 9 Trust which still encumbers the Property after the HOA Sale. 10 11. FHFA and Fannie Mae are entitled to a determination from this Court, pursuant 1 12 28 U.S.C. § 2201 and NRS § 40.010, that 12 U.S.C. § 4617(j)(3) precludes the HOA Sale from extinguishing Fannie Mae's property interest. 14 SECOND COUNTERCLAIM (Quiet Title versus Plaintiff) 15 1. FHFA incorporates by reference the responses of all previous paragraphs, as if fully set forth herein. 17 2. Pursuant to 28 U.S.C. § 2201 and NRS § 40.010, this Court has the power and authority to resolve the Plaintiff's adverse claims in the Property. 20 3. Fannie Mae has a property interest in the Property through its interest in the Deed of Trust. 21 6' Trust. 22 4. Plaintiff claims an interest in the Property through a foreclosure deed that is adverse to Fannie Mae's interest. 23 5. Fannie Mae's interest in the Deed of Trust encumbering the Property constitutes an interest in real property. 23 24 24 9031111.1038250.0001 25 26 26 21 <th>4</th> <th></th>	4	
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1	6. Fannie Mae's property interest at issue is property of the Conservator. Therefore,
2	applying NRS Chapter 116 or other state law in a manner that extinguishes Fannie Mae's interest
3	in the Property would violate 12 U.S.C. § 4617(j)(3).
4	7. Based on the adverse claims being asserted by the parties, FHFA and Fannie Mae
5	are entitled to a judicial determination regarding the rights and interests of the respective parties
6	to the case.
7	8. FHFA and Fannie Mae are entitled to a determination from this Court, pursuant to
8 9	
10	28 U.S.C. § 2201 and NRS § 40.010, that Fannie Mae has an interest in a first position Deed of
10	Trust which encumbers the Property after the HOA Sale.
12	9. FHFA and Fannie Mae are entitled to a determination from this Court, pursuant to
13	28 U.S.C. § 2201 and NRS § 40.010, that Fannie Mae's property interest by virtue of the Deed of
14	Trust is superior to the interest, if any, acquired by Plaintiff through the foreclosure deed.
15	PRAYER FOR RELIEF
16	WHEREFORE, FHFA prays for the following relief:
17	1. That Plaintiff's request for injunctive relief be denied;
18	2. That Plaintiff's request for declaratory relief be denied;
19	3. That Plaintiff takes nothing by way of his Complaint;
20	4. That the Court declare that 12 U.S.C. § 4617(j)(3) preempts any Nevada law that
21	would permit a foreclosure on a superpriority lien to extinguish a property interest of Fannie Mae
22	while it is under FHFA's conservatorship;
23	
24	5. That the Court declare that the HOA Sale did not extinguish the Deed of Trust
25 26	and thus did not convey the Property free and clear to Plaintiff;
20 27	6. That the Court declare that Fannie Mae's property interest is superior to the
28	interest, if any, of Plaintiff;
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1	7. That FHFA be awarded reasonable attorneys' fees and costs; and
2	8. That FHFA receive such other relief as the Court deems just and proper.
3	DATED this day of February, 2015.
4	FENNEMORE CRAIG, P.C.
5	By: <u> I selis Deservice Hert</u> Free (SDN 4022)
6	Leslie Bryan Hart, Esq. (SBN 4932) John D. Tennert, Esq. (SBN 11728) 200 E. Second St. Solits 1510
7	300 E. Second St., Suite 1510 Reno, Nevada 89501
8	Tel: 775-788-2228 Fax: 775-788-2229 lhart@fclaw.com; jtennert@fclaw.com
9	and
10	(Pro Hac Vice to be submitted)
11	ARNOLD & PORTER LLP Asim Varma, Esq.
12	Howard N. Cayne, Esq. Michael A.F. Johnson, Esq.
13	555 12th Street NW Washington, DC 20004
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15	hcayne@aporter.com; Michael.Johnson@aporter.com;
16	Attorneys for Proposed Intervenor Federal Housing
17	Financing Agency
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