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10 Attorneys for Proposed Intervenor Federal Housing Finance Agency

11 **UNITED STATES DISTRICT COURT**
 12 **DISTRICT OF NEVADA**

13 LN MANAGEMENT LLC SERIES 2543
 CITRUS GARDEN,

14 Plaintiff,

15 v.

16 MARCELLE GELGOTAS, an individual;
 MICHELLE ROCK, an individual; MARK
 ROCK, an individual; FEDERAL NATIONAL
 17 MORTGAGE ASSOCIATION; CITRUS
 GARDENS HOMEOWNERS
 ASSOCIATION, a Nevada Non-Profit
 Corporation; DOES 1 through 10, inclusive,

18 Defendants.

19
 20 FEDERAL NATIONAL MORTGAGE
 ASSOCIATION,

21 Counterclaimant,

22 v.

23 LN MANAGEMENT LLC SERIES 2543
 CITRUS GARDEN, a Nevada LLC; GREEN
 VALLEY RANCH COMMUNITY
 24 ASSOCIATION, INC., a Nevada non-profit
 corporation; DOES 1 through 10, inclusive;
 25 ROES Business Entities 1 through 10,
 26 inclusive,

27 Counter-Defendants.

CASE NO. 2:15-cv-00112-MMD-CWH

**STIPULATION TO ENTRY OF ORDER
 AND PROPOSED ORDER PERMITTING
 FEDERAL HOUSING FINANCE
 AGENCY TO INTERVENE AS
 CONSERVATOR OF THE FEDERAL
 NATIONAL MORTGAGE ASSOCIATION**

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The FHFA shall be permitted to intervene in the above-referenced action pursuant to 12 U.S.C. § 4617(b)(2)(A)(i) and Fed. R. Civ. P. 24.

DATED this 13th day of February, 2015.

<p>By: <u>/s/ Kerry Faughman</u> Kerry Faughman, Esq. Nevada Bar No. 12204 P.O.Box 335361 North Las Vegas, NV 89086 Tel. 702-301-3096 Fax. 702-331-4222 <i>Attorneys for Plaintiff LN Management LLC Series 2543 Citrus Garden</i></p>	<p>FENNEMORE CRAIG, P.C.</p> <p>By: <u>/s/ Leslie Bryan Hart</u> Leslie Bryan Hart, Esq. (SBN 4932) John D. Tennert, Esq. (SBN 11728) 300 E. Second St., Suite 1510 Reno, Nevada 89501 Tel: 775-788-2228 Fax: 775-788-2229 <i>lhart@fclaw.com; jtennert@fclaw.com</i></p>
<p>By: <u>/s/ Colt B. Dodrill</u> Colt B. Dodrill, Esq. Nevada Bar No. 9000 WOLFE & WYMAN LLP 980 Kelly Johnson Drive, Ste 140 Las Vegas, Nevada 89119 Tel: (702) 476-0100 Fax: (702) 476-0101 cbdodrill@wolfewyman.com <i>Attorneys for Federal National Mortgage Association</i></p>	<p>and</p> <p><i>(Pro Hac Vice to be submitted)</i> ARNOLD & PORTER LLP Asim Varma, Esq. Howard N. Cayne, Esq. Michael A.F. Johnson, Esq. 555 12th Street NW Washington, DC 20004 Tel:(202) 942-5000Fax: (202)942-5999 <i>Asim.Varma@aporter.com; hcayne@aporter.com; Michael.Johnson@aporter.com;</i></p> <p>Attorneys for Proposed Intervenor Federal Housing Financing Agency</p>

ORDER

IT IS SO ORDERED.



UNITED STATES DISTRICT COURT JUDGE

DATED: February 17, 2018

10061370.1/038236.0001

Exhibit A

Exhibit A

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11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 LN MANAGEMENT LLC SERIES 2543
CITRUS GARDEN

14 Plaintiff,

15 vs.

16 MARCELLE GELGOTAS; MICHELLE
ROCK; MARK ROCK; FEDERAL
17 NATIONAL MORTGAGE ASSOCIATION;
CITRUS GARDENS HOMEOWNERS
ASSOCIATION; and DOES 1 through 10,
18 inclusive,

19 Defendants.

20 FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

21 Counterclaimant,

22 vs.

23 LN MANAGEMENT LLC SERIES 2543
CITRUS GARDEN; GREEN VALLEY
RANCH COMMUNITY ASSOCIATION,
24 INC.; DOES 1 through 10, inclusive; ROES
Business Entities 1 through 10, inclusive,

25 Counter-Defendants.

CASE NO. 2:15-cv-00112-MMD-CWH

**ANSWER AND COUNTERCLAIMS BY
PROPOSED INTERVENOR THE
FEDERAL HOUSING FINANCE
AGENCY AS CONSERVATOR FOR THE
FEDERAL NATIONAL MORTGAGE
ASSOCIATION**

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 requirement that a motion to intervene “be accompanied by a pleading that sets out the claim or
6 defense for which intervention is sought, FHFA submits this Answer to respond as follows to the
7 Complaint filed by Plaintiff LN Management LLC Series 2543 Citrus Garden (“Plaintiff”).
8

9 **PARTIES, JURISDICTION AND VENUE**

10 1. FHFA admits the allegations of Paragraph 1 of the Complaint.

11 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,
14 and on that basis denies them.

15 4. FHFA is without knowledge as to the allegations of Paragraph 4 of the Complaint,
16 and on that basis denies them.

17 5. FHFA is without knowledge as to the allegations of Paragraph 6 of the Complaint,
18 and on that basis denies them.

19 6. FHFA denies the allegations of Paragraph 6 of the Complaint.

20 7. FHFA admits the allegations of Paragraph 7 of the Complaint.

21 8. FHFA is without knowledge as to the allegations of Paragraph 8 of the Complaint,
22 and on that basis denies them.

23 **GENERAL ALLEGATIONS**

24 9. The allegations of Paragraph 7 of the Complaint constitute a conclusion of law as
25 to which no response is required. To the extent a response is required, FHFA denies them.
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10. In answering Paragraph 10 of the Complaint, FHFA admits only that the referenced deed was recorded in the official records of the Clark County Recorder's Office as book and instrument number 201308210000280 and that the referenced deed speaks for itself. FHFA denies the remainder of the allegations of Paragraph 10 of the Complaint.

11. In answering Paragraph 11 of the Complaint, FHFA admits only that Defendant Fannie Mae has had, and continues to have, an interest in the Property. FHFA specifically denies that Fannie Mae's interest in the Property was extinguished. FHFA is without knowledge as the remainder of the allegations contained in Paragraph 11 of the Complaint and therefore denies them.

12. FHFA denies the allegations of Paragraph 12 of the Complaint.

13. FHFA is without knowledge as to the allegations of Paragraph 13 of the Complaint, and on that basis denies them.

FIRST CLAIM FOR RELIEF
(Quiet Title)

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 required, FHFA denies them.

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 conclusion of law to which no response is required. To the extent a response to the allegations is
9 required, FHFA denies them.
10

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 The Complaint fails to state a claim for which relief can be granted because, among other
17 reasons, Plaintiff's claim of free and clear title to the Property is barred by 12 U.S.C.
18 § 4617(j)(3), which precludes an HOA sale from extinguishing Fannie Mae's interest in the
19 Property and preempts any state law to the contrary.
20

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

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 acts, omissions, negligence, and/or intentional misconduct of one or more third parties over
7 whom neither FHFA nor Fannie Mae had control.
8

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.
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13 **SIXTH AFFIRMATIVE DEFENSE**

14 Plaintiff has failed to plead any alleged acts or omissions of FHFA or Fannie Mae
15 sufficient to warrant the consideration of general, expectation, consequential, or compensatory
16 damages.
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18 **SEVENTH AFFIRMATIVE DEFENSE**

19 Plaintiff is not entitled to equitable relief.

20 **EIGHTH AFFIRMATIVE DEFENSE**

21 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
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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**
6 **and Green Valley Ranch Community Association (the “HOA”))**

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 5. The Conservator has succeeded by law to all of Fannie Mae’s “rights, titles,
17 powers, and privileges.” 12 U.S.C. § 4617(b)(2)(A)(i).

18 6. During the Conservatorship, “[n]o property of [FHFA] shall be subject to levy,
19 attachment, garnishment, foreclosure, or sale without the consent of the [FHFA], nor shall any
20 involuntary lien attach to the property of [FHFA].” 12 U.S.C. § 4617(j)(3).

21 7. Fannie Mae’s property interest at issue is property of the Conservator. Therefore,
22 applying NRS Chapter 116 or other state law in a manner that extinguishes Fannie Mae’s interest
23 in the Property would violate 12 U.S.C. § 4617(j)(3).
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- 7. That FHFA be awarded reasonable attorneys' fees and costs; and
- 8. That FHFA receive such other relief as the Court deems just and proper.

DATED this _____ day of February, 2015.

FENNEMORE CRAIG, P.C.

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