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 7 *THR Nevada II, LP, THR Property Borrower, LP*
THR Property Guarantor, LP
 8 *THR Property Holdco, LP*
 2014-1 IH Property Holdco, LP
 9

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

12 LAS VEGAS DEVELOPMENT GROUP, LLC,
 a Nevada limited liability company,
 13
 Plaintiff,
 14
 vs.
 15 2014-3 IH EQUITY OWNER, LP, a Delaware
 limited partnership; BANK OF AMERICA, NA, a
 16 National Banking Association; MERIDIAN
 FORECLOSURE SERVICE, a California
 17 corporation; THR NEVADA II, LP a Delaware
 limited partnership; THR PROPERTY
 18 BORROWER, LP, a Delaware limited partnership;
 THR PROPERTY GUARANTOR, LP, a Delaware
 19 limited partnership; THR PROPERTY HOLDCO,
 LP, a Delaware limited partnership; 2014-3 IH
 20 PROPERTY HOLDCO, LP, a Delaware limited
 partnership; 2014-3 IH BORROWER, LP, a
 21 Delaware limited partnership; GERMAN
 AMERICAN CAPITAL CORPORATION, a
 22 Maryland corporation; CHRISTIANA TRUST, an
 unknown business entity; DOE individuals I through
 23 XX; and ROE CORPORATIONS I through XX,
 24
 Defendants.

Case No.: 2:15-cv-00917-GMN-NJK

JOINT PRETRIAL ORDER

25
 26 Plaintiff Las Vegas Development Group, LLC (“LVDG”) and Defendants THR Nevada II,
 27 LP (“THR2”), 2014-3 IH Borrower, 2014-13 IH Equity Owner, LP, THR Property Borrower, LP,
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1 THR Property Guarantor, LP, THR Property Holdco, LP, and 2014-3 IH Property Holdco, LP (the
2 THR and IH entities collectively, “**THR Entities**”) submit the following proposed joint pretrial order.

3 Following pretrial proceedings in this case, **IT IS ORDERED**:

4 **I. Nature of the action:**

5 This is a quiet title and declaratory relief matter following two foreclosure sales involving real
6 property located at 7832 Marksville St, Las Vegas, NV 89149 (“**Property**”). LVDG purchased the
7 Property at a HOA lien foreclosure sale conducted pursuant to NRS 116 (“**116 Sale**”), and THR2
8 subsequently purchased the Property at a deed of trust foreclosure sale conducted pursuant to NRS
9 107 (“**107 Sale**”). LVDG seeks a declaration that all subordinate liens were extinguished at the time
10 of the 116 Sale; that it acquired title to the Property free and clear of the Deed of Trust that was the
11 subject of the 107 Sale; and that the 107 Sale is void because it was based upon an extinguished
12 security interest. THR2 seeks a declaration that the 116 Sale was void or if not void was subject to the
13 Deed of Trust, and that THR2 acquired title to the Property at the 107 Sale free and clear of LVDG’s
14 claimed interest.
15

16 The Court entered an order denying summary judgment on March 25, 2020, finding an issue
17 of fact existed for trial related to whether prejudice was suffered as a result of notice not being
18 provided in the manner required by NRS 116. [ECF No. 115]. The Court found Cascade Homeowners
19 Association (“**Cascade HOA**”), through Absolute Collection Services (“**ACS**”), failed to
20 substantially comply with Nevada's statutory notice requirements since the evidence indicated that it
21 did not mail the notice of default or notice of sale to MERS. [ECF No. 115 at 5]. However, the Court
22 concluded that the evidence presented did not demonstrate whether MERS was prejudiced by Cascade
23 HOA’s and ACS’ failure to substantially comply with Nevada’s statutory notice requirements. [ECF
24 No. 115 at 6]. The Court did not address, among other things, whether the 116 Sale should be set aside
25 on equitable grounds or whether LVDG is a bona fide purchaser for value.
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2 **II. Statement of jurisdiction:**

3 This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332. The diversity of
4 citizenship requirement is met. LVDG is a citizen of Nevada and California. THR Entities are neither
5 Nevada nor California citizens. The amount in controversy requirement is also met. The amount in
6 controversy exceeds \$75,000.00. The THR Entities are citizens of the State of Delaware. The amount
7 in controversy requirement is also met because the property's value exceeds \$75,000.00.
8

9 **III. The following facts are admitted by the parties and require no proof:**

10 1. Nevada adopted Uniform Common Interest Ownership Act as NRS 116, including
11 NRS 116.3116(2), in 1991.

12 2. On or about July 22, 2005, Arnold Dumlao Dilag and Jocelyn Dilag (“Borrowers”)
13 purchased a property located at 7832 Marksville St, Las Vegas, NV 89149 as reflected in a Grant,
14 Bargain, Sale Deed recorded on July 29, 2005 in the Official Records of Clark County, Nevada, as
15 Instrument No. 20050729-0004278.
16

17 3. The Property is located within the Cascade HOA and is subject to the Cascade HOA’s
18 Declaration of Conditions, Covenants, & Restrictions (“CC&Rs”), which were recorded on August
19 18, 2003 in the Official Records of Clark County, Nevada, as Instrument No. 20030818-01114.

20 4. On or about December 4, 2006, the Borrowers refinanced the Property with a \$280,000
21 loan from Casa Blanca Mortgage, Inc. (the “**Loan**”).
22

23 5. The Borrowers secured the Loan with a deed of trust against the Property, recorded on
24 January 5, 2007, in the Official Records of Clark County, Nevada, as Instrument No. 20070105-
25 0001709 (“**2006 DOT**”). The 2006 DOT identified Casa Blanca Mortgage as the original Lender,
26 Mortgage Electronic Registration Systems, Inc. (“**MERS**”) as the Beneficiary, and Financial Title
27 Company as the Trustee.
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1 6. Concurrently with the 2006 DOT, a second deed of trust was recorded against the
2 Property in the Official Records of Clark County, Nevada, as Instrument No. 20070105-0001709
3 (“**Second DOT**”). The Second DOT is not at issue in this case.

4 7. On or about November 27, 2007, Casa Blanca Mortgage assigned the Second DOT to
5 IndyMac Bank through that certain Corporation Assignment of Deed of Trust recorded on December
6 4, 2007 in the Official Records of Clark County, Nevada, as Instrument No. 20071204-0002957.

7 8. On August 6, 2010, Cascade HOA, through its agent Absolute Collection Services
8 (“**ACS**”), recorded a Notice of Delinquent Assessment Lien in the Official Records of Clark County,
9 Nevada, as Instrument No. 201008-60000298.

10 9. On October 15, 2010, Cascade HOA, through its agent ACS, recorded a Notice of
11 Default and Election to Sell Under Homeowners’ Association Lien in the Official Records of Clark
12 County, Nevada, as Instrument No. 20101015-0003056 (“**NOD**”).

13 10. Cascade HOA, through ACS, did not mail the NOD to MERS, the Beneficiary under
14 the 2006 DOT, but instead mailed the NOD to Casa Blanca Mortgage, as well as IndyMac Bank,
15 among others.

16 11. On January 21, 2011, Cascade HOA through ACS, recorded a Notice of Trustee's Sale
17 in the Official Records of Clark County, Nevada, as Instrument No. 20110121-0003842 (“**NOS**”).

18 12. Cascade HOA, through ACS, did not mail the NOS to MERS, the Beneficiary under
19 the 2006 DOT, but instead mailed the NOS to Casa Blanca Mortgage, as well as IndyMac Bank,
20 among others.

21 13. On June 7, 2011, Cascade HOA sold the property at its foreclosure sale (“**116 Sale**”)
22 to LVDG for \$4,500.00, as reflected in the Trustee’s Deed Upon Sale recorded on June 8, 2011 in the
23 Official Records of Clark County, Nevada, as Instrument No. 20110608-0000856 (“**116 Foreclosure**
24 **Deed**”).
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1 14. The 116 Foreclosure Deed stated on its face that “Absolute Collection Services, LLC
2 has complied with all requirements of law including, but not limited to, the elapsing of 90 days,
3 mailing of copies of notice of delinquent assessment and notice of default and the posting and
4 publication of the notice of sale.”

5 15. On or about April 24, 2012, over ten months after the 116 Sale, MERS assigned the
6 2006 DOT to BANA through a Nevada Assignment of Deed of Trust recorded on April 27, 2012 in
7 the Official Records of Clark County, Nevada, as Instrument No. 20120437-0000036. The
8 Assignment was signed by MERS “solely as nominee for Casa Blanca Mortgage, Inc., DBA Shearson
9 Mortgage, a California Corporation.”

10 16. On May 7, 2012, a Substitution of Trustee related to the 2006 DOT was recorded in
11 the Official Records of Clark County, Nevada, as Instrument No. 20120507-0001779, reflecting
12 Meridian Foreclosure Service (“**Meridian**”) as the new Trustee.

13 17. On July 25, 2012, Meridian recorded a Notice of Default and Election to Sell Under
14 Deed of Trust in the Official Records of Clark County, as Nevada, as Instrument No. 20120725-
15 0002866.

16 18. On November 9, 2012, Meridian recorded a Notice of Trustee’s Sale related to the
17 2006 DOT in the Official Records of Clark County, Nevada, as Instrument No. 2012110-9003127.

18 19. On December 3, 2012, THR2 presented the prevailing bid of \$136,000.00 at
19 Meridian’s foreclosure sale (“**107 Sale**”) as reflected in the Trustee’s Deed Upon Sale recorded on
20 December 21, 2012, in the Official Records of Clark County, Nevada, as Instrument No. 20121221-
21 0003995.

22 20. On November 14, 2014, THR2 transferred its interest in the Property to THR Property
23 Borrower pursuant to a deed recorded in the Official Records of Clark County, Nevada, as Instrument
24 No. 20141114-0002840.

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1 21. On November 14, 2014, THR Property Borrower transferred its interest in the
2 Property to THR Property Guarantor pursuant to a deed recorded in the Official Records of Clark
3 County, Nevada, as Instrument No.20141114-0002841.

4 22. On November 14, 2014, THR Property Guarantor transferred its interest in the
5 Property to THR Property Holdco pursuant to a deed recorded in the Official Records of Clark County,
6 Nevada, as Instrument No. 20141114-0002842.

7 23. On November 14, 2014, THR Property Holdco transferred its interest in the
8 Property to 2014-3 IH Property Holdco pursuant to a deed recorded in the Official Records of Clark
9 County, Nevada, as Instrument No. 20141114-0002843.

10 24. On November 14, 2014, 2014-3 IH Property Holdco transferred its interest in the
11 Property to 2014-3 IH Equity Owner pursuant to a deed recorded in the Official Records of Clark
12 County, Nevada, as Instrument No. 20141114-0002844.

13 25. On November 14, 2014, 2014-3 IH Equity Owner transferred its interest in the
14 Property to 2014-3 IH Borrower pursuant to a deed recorded in the Official Records of Clark County,
15 Nevada, as Instrument No. 20141114-0002845.

16 26. On November 15, 2017, 2014-3 IH Borrower transferred its interest in the Property
17 to THR Nevada II pursuant to a deed recorded in the Official Records of Clark County, Nevada, as
18 Instrument No. 20171115-0001537.

19 27. On March 20, 2015, LVDG recorded a notice of lis pendens in the Official Records of
20 Clark County, Nevada, as Instrument No. 20150320-0001997.

21 **IV. The following facts, though not admitted, will not be contested at trial by evidence to**
22 **the contrary:**

23 1. None.
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1 **V. The following are issues of fact to be tried and determined at trial:**

2 1. The identity of the entity or entities with an interest in the 2006 DOT and entitled to
3 notice at the time of the notices related to the 116 Sale, and the time periods during which they held an
4 interest.

5 2. The policies, practices, and procedures of the entity or entities with an interest in the
6 2006 DOT related to homeowners association lien foreclosure sales in Nevada at the time of notices
7 related to the 116 Sale.

8 3. The policies, practices, and procedures of MERS related to homeowners association
9 lien foreclosure sales in Nevada at the time of notices related to the 116 Sale.

10 4. Whether any entity with an interest in the Loan or the 2006 DOT was prejudiced as a
11 result of ACS' failure to send to MERS the statutory notices required by NRS Chapter 116.¹

12 5. Whether any entity with an interest in the Loan or the 2006 DOT would have taken any
13 action to satisfy any portion of the HOA lien had MERS been provided with notice of the 116 Sale.

14 6. Whether it was unfair, fraudulent, or oppressive to any entity with an interest in the
15 Loan or the 2006 DOT that MERS was not provided notice of the 116 Sale.

16 7. Whether Cascade HOA or ACS had knowledge, during the 116 foreclosure
17 proceedings, of an address it could use to provide actual notice of the 116 Sale to MERS or any entity
18 with an interest in the Loan or the 2006 DOT.

19 8. Whether LVDG was entitled to rely upon the recitals in the 116 Foreclosure Deed.

20 9. Whether LVDG had actual notice, constructive notice or reasonable cause to know that
21 any defect existed in the 116 Sale.

22 10. The degree of LVDG's real estate investment experience prior to the 116 Sale.

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27 ¹ This Court ruled that Cascade HOA and ACS did not substantially comply with the notice requirements of NRS 116 by
28 failing to send MERS the statutorily required notice. [ECF No. 115].

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1 11. Whether ACS had a known policy of rejecting checks for the superpriority portion of
2 the homeowners association liens at the operative time period.

3 12. Whether ACS believed the 2006 DOT would be extinguished by the 116 Sale.

4 13. Whether any entity with an interest in the Loan or the 2006 DOT had knowledge of
5 ACS' policies rejecting tenders for the superpriority portion of a homeowners association lien and
6 ACS' understanding of 116 Sales.

7 14. Whether the Property was sold at the 116 Sale for an adequate or inadequate price.

8 15. Whether the 116 Sale should be set aside on equitable grounds because the events
9 proceeding the sale were fraudulent, oppressive, or unfair, coupled with a grossly inadequate price
10 received for the Property.

11 16. Whether bidding was chilled at the 116 Sale.

12 17. Whether the Property was sold at the 107 Sale for an adequate or inadequate price.

13 18. Whether LVDG took any steps to prevent the 107 Sale in advance of the 107 Sale or
14 immediately after the 107 Sale and whether it was required to do so.

15 19. Whether the 107 Sale was maliciously or fraudulently conducted.

16 **VI. The following are issues of law to be tried and determined at trial:**

17 1. Whether the 116 Sale extinguished the 2006 DOT.

18 2. Whether the 116 Sale is void or should be equitably set aside under *Nationstar*
19 *Mortgage, LLC v. Saticoy Bay Series 2227 Shadow Canyon*, 405 P.3d 641 (Nev. 2017) and/or *U.S.*
20 *Bank, N.A. v. Resources Group, LLC*, 444 P.3d 442 (Nev. 2019).

21 3. Whether LVDG was a bona fide purchaser for value at the 116 Sale.

22 4. Whether formal tender was excused under the circumstances at issue herein pursuant to
23 *Perla Del Mar Ave Trust v. Bank of America, N.A., v. Resources Group, LLC*, 458 P.3d 348 (Nev.
24 2020), as a result of ACS' policies related to NRS Chapter 116 sales.

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- 1 5. Whether the Cascade HOA and ACS violated due process.
- 2 6. Whether LVDG has standing to challenge the 107 Sale.
- 3 7. Whether LVDG suffered damages as a result of the 107 Sale and, if so, the extent of
- 4 such damages.
- 5 8. Whether THR2 suffered damages, as a result of the improvements made on the property
- 6 and other monies spent in relation to the property by THR2 or the THR entities, if the Court declares
- 7 the 107 Sale invalid, and, if so, the extent of such damages.
- 8 9. Whether LVDG’s non-quiet title claims are time-barred or otherwise lack merit.
- 9 10. Whether LVDG is barred from any relief under the doctrine of unclean hands.
- 10 11. Whether the Court should cancel LVDG’s lis pendens.
- 11 12. Whether LVDG was entitled to rely upon the implied and explicit representations of
- 12 ACS that the 116 sale was duly and properly noticed and conducted.
- 13 13. LVDG’s entitlement to damages on each of its claims for relief and the amount thereof.
- 14 14. Whether the 116 Sale is void due to the failure of Cascade HOA and its agent ACS, to
- 15 provide the statutory notices to the Beneficiary under the 2006 DOT.
- 16 20. Whether the failure of ACS and Cascade HOA to provide the statutory notices to
- 17 MERS rendered the 116 Sale void as a matter of law.
- 18 21. Whether LVDG suffered monetary damages in the form of lost rental income or
- 19 otherwise as a result of the 107 Sale, and, if so, the extent of such damages.
- 20 22. Whether any applicable entity with an interest in the 2006 DOT received actual notice
- 21 of the HOA foreclosure proceedings in lieu of statutory notice.
- 22 23. Whether THR2 was a bona fide purchaser for value at the 107 Sale.
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VII. The following exhibits are stipulated into evidence in this case and may be so marked by the Clerk. ²

Exh. No.	Document	Bates Number
1	07/29/05 Grant Bargain Sale Deed	BANA0183 - 0186
2	07/29/05 Deed of Trust	BANA0187 - 0212
3	12/26/05 Substitution of Trustee & Full Reconveyance	BANA0213 - 0214
4	01/05/07 Deed of Trust (2006 DOT) (\$280,000.00) (Inst. 20070105-0001709)	BANA0215 - 0243
5	01/05/07 2nd Deed of Trust (\$32,000.00) (Inst. 20070105-0001710)	BANA0244 - 0257
6	12/04/07 Corporation Assignment of 2nd Deed of Trust to IndyMac Bank	BANA0258 - 0259
7	07/03/08 Quitclaim Deed to Jocelyn Dilag	BANA0260 - 0262
8	Notice of Delinquent Assessment Lien recorded 08/26/2010	BANA0263 - 0264
9	Notice of Default and Election to Sell Under Homeowners Association Lien recorded 10/15/2010	BANA0265 - 0267
10	Notice of Trustee's Sale recorded 01/21/2011	BANA0268 - 0269
11	Trustee's Deed Upon Sale for auction held 06/07/2011, recorded 06/08/2011	BANA0270 - 0273
12	Release of Lien recorded 06/09/2011	BANA0274
13	Assignment of Deed of Trust to BANA recorded 04/27/2012	BANA0275 - 0276
14	Substitution of Trustee	BANA0277 - 0278
15	Notice of Default and Election to Sell Under Deed of Trust recorded 07/25/2012	BANA0279 - 0284
16	State of Nevada Foreclosure Mediation Program Certificate	BANA0285
17	Notice of Trustee's Sale (under Deed of Trust) recorded 11/09/2012	BANA0286 - 0288
18	Trustee's Deed Upon Sale (under Deed of Trust) recorded 12/21/2012 to THR Nevada II, LP	BANA0289 - 0292
19	Grant Bargain Sale Deed to THR Property Borrower, LP recorded 11/14/2014	InvitationHomes00016 - 00223
20	Request for Notice of Foreclosure of Lien from Association	BANA0293 - 0297
21	Notice of Lis Pendens recorded 03/20/2015	BANA0297 - 0299
22	Grant Bargain Sale Deed to THR Property Guarantor, LP recorded 11/14/2014	
23	Grant Bargain Sale Deed to THR Property Holdco, LP recorded 11/14/2014	

² LVDG objects to Exhibits 45 to 66, which is the evidence related to the tender futility defense which is the subject of a pending Motion For Leave To Allow Additional Evidence And Witnesses (Doc. 185). Depending upon the manner in which said Motion is resolved, LVDG reserves the right to likewise list additional documents of the sort which the Defendants propose to add pursuant to their Motion.

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1	24	Grant Bargain Sale Deed to 2014-3 IH Property Holdco, LP recorded 11/14/2014	
2	25	Grant Bargain Sale Deed to 2014-3 IH Equity Owner, LP recorded 11/14/2014	
3	26	Grant Bargain Sale Deed to 2014-3 IH Borrower, LP recorded 11/14/2014	
4	27	Deed of Trust to German American Capital, recorded 11/14/2014	
5	28	Assignment of Deed of Trust to Christiana Trust, recorded 06/17/2014	
6	29	Grant Bargain Sale Deed to THR Nevada II, LP, recorded 11/15/2017	BANA(DUMLAO) 0375-0390
7	30	Meridian Foreclosure Sale Bid Receipt	IH00408
8	31	Preliminary Title Report from Fidelity National Title Agency of Nevada	IH00409 - 0426
9	32	CC&Rs	BANA0300 - 0374
10	33	Absolute Collection Services, LLC's Collection File In Response To Bank of America, N.A.'s Subpoena Duces Tecum	BANA(DUMLAO) 0001 - 0111
11	34	Certificate of Custodian of Record for Alessi & Koenig, LLC and HOA Lawyers Group	BANA(DUMLAO) 0112 - 0113
12	35-A	HOA Lawyers Group Title Report dated October 19, 2010	BANA(DUMLAO) 0114 - 0169
13	35-B	TRI Title Report dated October 20, 2010 and Evidence of Mailing of HOA NOD	BANA(DUMLAO) 0170 - 0178
14	35-C	Status Report - HOA Lawyers Group	BANA(DUMLAO) 0179
15	35-D	Casa Blanca Mortgage, Inc. documents on California Secretary of State's Website	BANA0391 - 0396
16	36	IndyMac Bank - Google Search Results	IH00306 - 0307
17	37	FDIC Press Release on IndyMac Bank	IH00308 - 0312
18	38	THR Nevada II, LP Ownership Package	IH00313 - 00407
19	39	07/22/19 LVDG's Responses to BOA's First Set of Request for Admissions	
20	40-1	THR Nevada II Responses to BOA's First Set of Interrogatories	
21	40-2	THR Nevada II Responses to BOA's First Set of Request for Admissions	
22	40-3	THR Nevada II Responses to BOA's First Set Request for Production of Documents	
23	40-4	Expert Witness Reports (Lubawy/107 sale)	LUBAWY000001-000015
24	41	Expert Witness Report (Lubawy/116 sale)	LUBAWY000016 - 000029
25	42	Expert Witness Report (Dugan)	

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1	43	Trustee's Deed Upon Sale, APN:124-21-412-015, Inst. No.20130131-0002132	IH00571 – 0573
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3	44	Trustee's Deed Upon Sale, APN: 161-11-112-048, Inst. No. 20130131-0002274	IH00574 – 0576
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5	45	Miles Bauer Bergstrom & Winters, LLP Affidavit (5347 Tipper) (ACS Letter dated June 15, 2010) Miles Bauer Affidavit 06/15/2010	IH00670-IH00679
6	46	Miles Bauer Bergstrom & Winters, LLP Affidavit (10691 San Palatina) (ACS Letter dated March 4, 2011)	IH00680-IH00689
7	47	Miles Bauer Bergstrom & Winters, LLP Affidavit (4920 Little Cayman) (ACS Letter dated June 6, 2011)	IH00690-IH00699
8			
9	48	Miles Bauer Bergstrom & Winters, LLP Affidavit (2614 White Pine) (ACS Letter dated February 3, 2011)	IH00700-IH00707
10	49	Miles Bauer Bergstrom & Winters, LLP Affidavit (5638 Via Victoria) (ACS Letter dated April 6, 2012)	IH00708-IH00714
11	50	Miles Bauer Bergstrom & Winters, LLP Affidavit (1124 Milpas) (ACS Letter dated July 5, 2012)	IH00715-IH00721
12	51	Miles Bauer Bergstrom & Winters, LLP Affidavit (2117 Summer Lily) (ACS Letter dated July, 26, 2012)	IH00722-IH00729
13	52	Miles Bauer Bergstrom & Winters, LLP Affidavit (8064 Egypt Meadows) (ACS Letter dated September 7, 2012)	IH00730-IH00735
14	53	Miles Bauer Bergstrom & Winters, LLP Affidavit (650 Taliput Palm) (ACS Letter dated September 18, 2012)	IH00736-IH00742
15			
16	54	Miles Bauer Bergstrom & Winters, LLP Affidavit (6552 Coldwater Bay) (ACS Letter dated October 24, 2012)	IH00743-IH00749
17	55	Miles Bauer Bergstrom & Winters, LLP Affidavit (1063 Country Skies)(ACS Letter dated December 11, 2012)	IH00750-IH00756
18	56	Miles Bauer Bergstrom & Winters, LLP Affidavit (7905 Mountain Point)(ACS Letter dated January 2, 2013)	IH00757-IH00763
19	57	Miles Bauer Bergstrom & Winters, LLP Affidavit (7180 North Campbell) (ACS Letter dated February 21, 2013)	IH00764-IH00782
20	58	Miles Bauer Bergstrom & Winters, LLP Affidavit (653 Taliput Palm) (ACS Letter dated March 25, 2013)	IH00783-IH00801
21	59	Deposition Testimony of Kelly Mitchell 30(b)(6) Representative for ACS dated July 11, 2016 (Case # 2:16-cv-00242)	IH00838-IH00854
22			
23	60	Deposition of Kelly Mitchell 30(b)(6) Representative for ACS August 16, 2016	IH00855-IH00861
24	61	Deposition of Kelly Mitchell 30(b)(6) Representative for ACS January 15, 2019	IH00862-IH00868
25	62	Deposition of Kelly Mitchell 30(b)(6) Representative for ACS February 6, 2019	IH00869-IH00875
26			
27	63	Deposition of Kelly Mitchell 30(b)(6) Representative for ACS May 6, 2019 @ 1:46	IH00876-IH00938
28			

	pm	
64	Deposition of Kelly Mitchell 30(b)(6) Representative for ACS May 6, 2019 @ 3:40 pm	IH00939-IH00955)
65	Deposition of Kelly Mitchell 30(b)(6) Representative for ACS June 27, 2019	IH00956-IH00970
66	Kelly Mitchell and Rock Jung Trial Testimony, April 3, 2017, Case No. A-13-693205-C	IH00971-00984

VIII. Electronic evidence:

The parties have no intention to present electronic evidence for purposes of jury deliberation.

This will be a bench trial. The parties reserve the right to present exhibits electronically for the Court.

IX. Depositions:

The parties reserve the right to use the following deposition transcripts ³:

- A. Charles Schmidt, 30(b)(6) Representative for LVDG, July 11, 2019
- B. Kelly Mitchell, 30(b)(6) Representative for ACS, July 11, 2019
- C. Nicole Bowdle, 30(b)(6) Representative for THR2, August 12, 2019
- D. David Alessi, 30(b)(6) Representative for Alessi & Koenig, LLC, June 4, 2019

X. Witnesses:

The following witnesses may be called by the parties at trial:

(a) **State the names and addresses of LVDG's witnesses.**

1. Jon Jentz and/or Corporate Designee of Plaintiff,
LAS VEGAS DEVELOPMENT GROUP, LLC,
C/O Roger P. Croteau & Associates, Ltd.
2810 W. Charleston Blvd., #67
Las Vegas, Nevada 89102
2. Corporate Designee of Defendant
2014-3 IH EQUITY OWNER, LP,
C/O Gerrard Cox & Larsen,
2450 St. Rose Pkwy #200
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³ The following depositions were taken in the instant case. The parties have listed other depositions as evidence in Section VII.

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- 3. Corporate Designee of Defendant,
BANK OF AMERICA, NA,
C/O Akerman LLP
1635 Village Center Circle, Suite 200
Las Vegas, Nevada 89134
- 4. Corporate Designee of Defendant
MERIDIAN FORECLOSURE SERVICE
C/O Diane Burnett, President
9999 Amber Field Street
Las Vegas, Nevada 89178
- 5. Corporate Designee of Defendant
THR NEVADA II, LP
C/O Gerrard Cox & Larsen
2450 St. Rose Pkwy #200
Henderson, Nevada 89074
- 6. Corporate Designee of Defendant
THR PROPERTY BORROWER LP
C/O Gerrard Cox & Larsen
2450 St. Rose Pkwy #200
Henderson, Nevada 89074
- 7. Corporate Designee of Defendant
THR PROPERTY GUARANTOR, LP
C/O Gerrard Cox & Larsen
2450 St. Rose Pkwy #200
Henderson, Nevada 89074
- 8. Corporate Designee of Defendant
THR PROPERTY HOLDCO, LP
C/O Gerrard Cox & Larsen
2450 St. Rose Pkwy #200
- 9. Henderson, Nevada 89074 Corporate Designee of Defendant
2014-3 IH PROPERTY HOLDCO, LP,
C/O Gerrard Cox & Larsen
2450 St. Rose Pkwy #200
Henderson, Nevada 89074
- 10. Corporate Designee of Defendant
2014-3 IH BORROWER, LP
C/O Hutchison & Steffen, PLLC 10080 West Alto Drive, Suite 200
Las Vegas, Nevada 89145

GERRARD, COX & LARSEN
2450 St. Rose Parkway, Suite 200
Henderson, NV 89074
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- 11. Corporate Designee of Defendant
GERMAN AMERICAN CAPITAL CORPORATION
C/O Fidelity National Law Group
1701 Village Center Circle, Suite 110
Las Vegas, Nevada 89143
 - 12. Corporate Designee of Defendant
CHRISTIANA TRUST
C/O Fidelity National Law Group
1701 Village Center Circle, Suite 110
Las Vegas, Nevada 89143
 - 13. Defendant
ARNOLD DUMLAO DILAG
913 Antiquity Drive
Fairfield, California 94534.
 - 14. Defendant
JOCELYN DILAG
913 Antiquity Drive
Fairfield, California 94534
 - 15. Corporate Designee of 2017-2 IH Borrower, LP
C/O CSC Services of Nevada
2215-B Renaissance Drive
Las Vegas, Nevada 89119
 - 16. Corporate Designee of Cascade Homeowners Association, Inc.
C/O Level Property Management
8966 Spanish Ridge Avenue, #100
Las Vegas, Nevada 89148
 - 17. Kelly Mitchell and/or Corporate Designee of Absolute Collection Services, LLC,
C/O Shane Cox, Esq.
7485 West Azure Drive, Suite 129
Las Vegas, Nevada 89130
 - 18. Corporate Representative of OneWest Bank FSB
888 E. Walnut Street
Pasadena, California 91101
 - 19. Any and all witnesses called or listed by any other party to this litigation.
- (b) **State the names and addresses of THR Defendants' witnesses:**
- 1. Corporate Designee for
2014-3 IH BORROWER, LP
c/o Hutchison & Steffen, PLLC

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10080 W. Alta Drive, Suite 200
Las Vegas, Nevada 89145
Phone: (702) 667-3000

2. Corporate Designee for
THR NEVADA II, LP
c/o GERRARD COX LARSEN
2450 St. Rose Pkwy., Suite 200
Henderson, Nevada 89074
Phone: (702) 796-4000
3. Corporate Designee for
THR PROPERTY BORROWER, LP
c/o GERRARD COX LARSEN
2450 St. Rose Pkwy., Suite 200
Henderson, Nevada 89074
Phone: (702) 796-4000
4. Corporate Designee for
THR PROPERTY GUARANTOR, LP
c/o GERRARD COX LARSEN
2450 St. Rose Pkwy., Suite 200
Henderson, Nevada 89074
Phone: (702) 796-4000
5. Corporate Designee for
THR PROPERTY HOLDCO, LP
c/o GERRARD COX LARSEN
2450 St. Rose Pkwy., Suite 200
Henderson, Nevada 89074
Phone: (702) 796-4000
6. Corporate Designee for
2014-3 IH PROPERTY HOLDCO, LP
c/o GERRARD COX LARSEN
2450 St. Rose Pkwy., Suite 200
Henderson, Nevada 89074
Phone: (702) 796-4000
7. Corporate Designee for
2014-3 IH EQUITY OWNER, LP
c/o GERRARD COX LARSEN
2450 St. Rose Pkwy., Suite 200
Henderson, Nevada 89074
Phone: (702) 796-4000
8. Corporate Designee for
LAS VEGAS DEVELOPMENT GROUP, LLC
c/o ROGER P. CROTEAU & ASSOCIATES, LTD.
2810 W. Charleston Blvd. #67
Las Vegas, Nevada 89102
Phone: (702) 254-7775

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- 9. Corporate Designee for
CASCADE HOMEOWNERS ASSOCIATION, INC.
c/o Level Property Management
8966 Spanish Ridge Avenue #100
Las Vegas, Nevada 89148
- 10. Corporate Designee for
BANK OF AMERICA, N.A.
c/o Akerman, LLP
1635 Village Center Circle, Suite 200
Las Vegas, Nevada 89134
Phone: (702) 634-5000
- 11. Corporate Designee for
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS
P.O. Box 2026
Flint, MI 48501-2026
Phone: (888) 679-MERS
- 12. Kelly Mitchell
ABSOLUTE COLLECTION SERVICES, LLC
6440 Sky Pointe Dr., Ste 140-Box 154
Las Vegas, Nevada 89131
Phone: (702) 531-3394
- 13. David Alessi
c/o HOA Lawyers Group, LLC
9500 W. Flamingo Road
Las Vegas, Nevada 89147
- 14. Charles Schmidt⁴
c/o ROGER P. CROTEAU & ASSOCIATES, LTD.
2810 W. Charleston Blvd. #67
Las Vegas, Nevada 89102
Phone: (702) 254-7775
- 15. Jocelyn Dilag
Address Unknown
- 16. Arnold Dumlao Dilag
Address Unknown
- 17. Nicole Bowdle
Invitation Homes
c/o GERRARD COX LARSEN
2450 St. Rose Pkwy., Suite 200
Henderson, Nevada 89074
Phone: (702) 796-4000

⁴ LVDG has advised the other parties that its FRCP 30(b)(6) witness at the time LVDG was deposed, Charles Schmidt, has died and thus will be unavailable for trial. Another corporate designee will be available for trial. The Defendants intend to use Mr. Schmidt's deposition at the trial as permitted by FRCP 32(a)(3)&(4).

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- 18. Corporate Designee for
INVITATION HOMES
c/o GERRARD COX LARSEN
2450 St. Rose Pkwy., Suite 200
Henderson, Nevada 89074
Phone: (702) 796-4000
- 19. R. Scott Dugan, SRA
R. Scott Dugan, Appraisal Company, Inc.
8930 West Tropicana Avenue, Suite 1
Las Vegas, Nevada 89147
Phone: (702) 876-2000
- 20. Corporate Designee for
ABSOLUTE COLLECTION SERVICES, LLC
6440 Sky Pointe Dr., Ste 140 – Box 154
Las Vegas, NV 89131
Phone: (702)531-3394
- 21. Doug Miles. Esq. or another Corporate Designee for
Miles Bauer Bergstrom & Winters, LLP
575 Anton Road, Suite 300
Costa Mesa, CA 92626
Phone: (714) 432-6503
- 22. Rock K. Jung, Esq.
Wright, Finlay, & Zak, LLP
7785 W. Sahara Ave., Suite 200
Las Vegas, NV 89117
Phone: (702) 475-7964
- 23. Adam Kendis
Miles Bauer Bergstrom & Winters, LLP
1231 East Dyer Road, Suite 100
Santa Ana, CA 92705
- 24. Any and all witnesses identified by any other party to this litigation.

XI. Motions *in Limine*:

To date, no party has filed any motions *in limine*.

XII. Trial Dates:

The attorneys or parties have met and jointly offer these trial dates: week of February 13, 2023, week of March 13, 2023, or week of April 17, 2023. It is expressly understood by the undersigned that the Court will set the trial of this matter on one of the agreed-upon dates if possible; if not, the trial will be set at the convenience of the Court's calendar.

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XIII. Trial Length:

It is estimated that the trial will take a total of 3 - 5 days.

APPROVED TO AS TO FORM AND CONTENT:

<p>AKERMAN, LLP</p> <p><u>/s/ DISMISSED FROM CASE</u> MELANIE MORGAN, ESQ. Nevada Bar No. 8215 SCOTT R. LACHMAN, ESQ. Nevada Bar No. 12016 1635 Village Center Circle, Suite 200 Las Vegas, Nevada 89134</p> <p><i>Attorneys for Bank of America, N.A.</i></p>	<p>ROGER P. CROTEAU & ASSOCIATES, LTD.</p> <p><u>/s/ Timothy E. Rhoda, Esq.</u> ROGER P. CROTEAU, ESQ. Nevada Bar No. 4958 TIMOTHY E. RHODA, ESQ. Nevada Bar No. 7878 2810 W. Charleston Boulevard, Suite 67 Las Vegas, NV 89102</p> <p><i>Attorneys for Las Vegas Development Group, LLC</i></p>
<p>GERRARD, COX & LARSEN</p> <p><u>/s/ Douglas D. Gerrard, Esq.</u> DOUGLAS D. GERRARD, ESQ. Nevada Bar No. 4613 ZAHAVA M. LIEBERMAN, ESQ. Nevada Bar No. 15953 2450 St. Rose Parkway, Suite 200 Henderson, NV 89074</p> <p><i>Attorneys for 2014-13 IH Equity Owner, LP, THR Nevada II, LP, THR Property Borrower, LP, THR Property Guarantor, LP, THR Property Holdco, LP, and 2014-3 IH Property Holdco, LP</i></p>	<p>HUTCHINSON & STEFFEN, PLLC</p> <p><u>/s/ Todd Prall, Esq.</u> JOHN T. STEFFEN, ESQ. Nevada Bar No. 4390 TODD PRALL, ESQ. Nevada Bar No. 9154 Peccole Professional Park 10080 W. Alta Drive, Suite 200 Las Vegas, NV 89145</p> <p><i>Attorneys for 2014-3 IH Borrower</i></p>

ORDER

Action By the Court:

This case is set for court/~~jury~~ trial on the ~~fixed~~/stacked calendar on 4/24/23 at 8:30 a.m. .
Calendar call will be held on 4/18/23 at 9:00 a.m. in Courtroom 7D .

This pretrial order has been approved by the parties to this action as evidenced by their signatures or the signatures of their attorneys hereon, and the order is hereby entered and will govern the trial of this case. This order may not be amended except by court order and based upon the parties' agreement or to prevent manifest injustice.

UNITED STATES DISTRICT JUDGE

DATED: December 7, 2022

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