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8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10
 11 U.S. BANK, NATIONAL ASSOCIATION, AS
 TRUSTEE FOR THE HOLDERS OF THE
 12 CSFB MORTGAGE SECURITIES CORP.,
 ADJUSTABLE RATE MORTGAGE TRUST
 13 2005-8, ADJUSTABLE RATE MORTGAGE-
 BACKED PASS-THROUGH CERTIFICATES,
 14 SERIES 2005-8,

Case No.: 2:15-cv-01463-RCJ-GWF

FINAL JUDGMENT

15 Plaintiff,

16 vs.

17 COUNTRYSIDE HOMEOWNERS
 ASSOCIATION; K K REAL ESTATE
 18 INVESTMENT FUND, LLC; DOE
 INDIVIDUALS I-X, inclusive, and ROE
 19 CORPORATIONS I-X, inclusive,

20 Defendants.

21 Pursuant to the Court's order dated April 13, 2017 [ECF. No. 57], the Court hereby enters
 22 final judgment in this case as follows:

23 1. This action concerns the real property commonly known as 8543 Ebony Hills Way, Las
 24 Vegas, NV 89123, APN 177-15-711-001, more specifically described as:

Parcel ONE (1):

25
 26 Lot ONE (1) in Block One (1) of Maryland / Pebble – Unit 3 as shown by map thereof on file in
 27 Book 69 of plats, Page 49 in the office of the County Recorder of Clark County, Nevada.

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1 **PARCEL TWO (2):**

2 A non-exclusive easement appurtenant to Parcel One (1) for ingress, egress and of use and
3 enjoyment in, to and over the Common Areas as set forth in the Declaration of Covenants,
4 Conditions and Restrictions and Reservation of Easements for Countryside recorded August 4,
5 1995 in Book 950804 as Document No. 00005 and re-recorded September 14, 1995 in Book
6 950914 as Document No. 00117, as the same may from time to time be amended and/or
7 supplemented in the Office of the County Recorder of Clark County, Nevada

8 **APN:** 177-15-711-001

9 2. Plaintiff, U.S. Bank, National Association, as Trustee for the Holders of the CSFB Mortgage
10 Securities Corp., Adjustable Rate Mortgage Trust 2005-8, Adjustable Rate Mortgage-Backed Pass-
11 Through Certificates Series 2005-8 (**U.S. Bank**) is the beneficiary of a senior deed of trust (the **Deed**
12 **of Trust**) recorded against the real property at issue in this case on May 18, 2005 as Instrument No.
13 20050518-0001381, which secures a loan in the original amount of \$228,800.

14 3. Countryside Homeowners' Association (the **HOA**) foreclosed on the property on or about
15 January 6, 2012. A foreclosure deed in favor of HOA was recorded January 19, 2012 as Instrument
16 No. 201201190001522.

17 4. KK Real Estate Investment Fund, LLC (**KKREIF**) acquired the property from HOA via a
18 QuitClaim Deed recorded on May 7, 2013 as Instrument No. 201305070003355

19 **IT IS HEREBY ORDERED:**

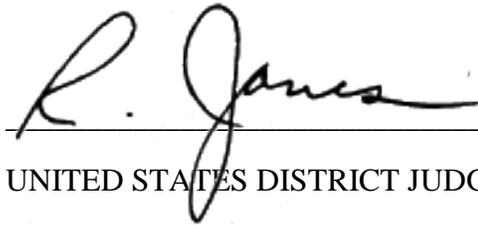
20 1. The Court has granted summary judgment in U.S. Bank's favor as to its first cause of action
21 for quiet title and declaratory judgment. Specifically, the Court finds that Chapter 116's opt-in notice
22 scheme is facially unconstitutional under the Due Process Clause of the Fourteenth Amendment, as
23 foreclosure under NRS 116 involves state action that deprives a right without adequate notice. See
24 Bourne Valley Court Tr. V. Wells Fargo Bank, N.A., 832 F.3d 1154, 1160 (9th Cir. 2016). The Court
25 further finds that defendants provided no evidence of actual notice in this case. The HOA's
26 foreclosure sale did not extinguish the Deed of Trust held by U.S. Bank. As a result, the title
27 acquired by the HOA at the foreclosure sale, and the title it subsequently conveyed to KKREIF, is
28 subject to the Deed of Trust.

1 2. The Deed of Trust remains a valid superior lien against the property and is superior to the
2 interest held by KKREIF;

3 3. As to the remaining claims — Breach of NRS 116.1113 (Second Cause of Action); Wrongful
4 Foreclosure against Countrywide Homeowners' Association (Third Cause of Action); and Injunctive
5 Relief against KKREIF (Fourth Cause of Action) — these claims are dismissed without prejudice.
6 Accordingly, all claims in this case are resolved.

7 4. This is the final judgment of the Court, and no further order is required. Each side will bear
8 its own fees and costs.

9 DATED: This 22nd day of May, 2017.

10 
11 _____
12 UNITED STATES DISTRICT JUDGE

13 Respectfully submitted by:
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