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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

CHRISTIANA TRUST,

Plaintiff,

vs.

K&P HOMES et al.,

Defendants.

2:15-cv-01534-RCJ-VCF

**ORDER**

This case arises out of a homeowners' association foreclosure sale. In 2007, Rita Wiegand purchased real property in Las Vegas, Nevada, giving the lender a promissory note for \$284,200 secured by a deed of trust ("the DOT"). In 2013, the Tuscalante Homeowners Association ("the HOA") sold the property at auction to K&P Homes ("K&P") for \$40,000. In 2014, Bank of America assigned the note and DOT to Christiana Trust. Christiana Trust sued Wiegand and K&P in this Court for unjust enrichment and to quiet title, i.e., for a declaration that the DOT still encumbers the property because (among other reasons) the sale did not comport with due process. K&P filed a Counterclaim to quiet title and filed a Third-Party Complaint against Wiegand. The Court granted Christiana Trust's motion to dismiss the Counterclaim, anticipating that *SFR Invs. Pool I, LLC v. U.S. Bank, N.A.*, 334 P.3d 408 (Nev. 2014) did not apply retroactively.

1 K&P asked the Court to certify the retroactivity question to the Nevada Supreme Court.  
2 The Court granted the motion, because the issue was potentially dispositive of the quiet title  
3 claim. In 2017, the Nevada Supreme Court ruled that *SFR Invs. Pool I* applies retroactively.  
4 However, in the meantime, the Court of Appeals decided *Bourne Valley Court Tr. v. Wells*  
5 *Fargo Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016) (holding that the notice scheme under Chapter  
6 116 is facially unconstitutional under the Due Process Clause of the Fourteenth Amendment).  
7 The Court had previously rejected the due process argument, but *Bourne Valley* requires the  
8 Court to reconsider and quiet title in favor of Plaintiff. *See Bank of N.Y. Mellon v. Ravenstar*  
9 *Invs., LLC*, No. 3:17-cv-116, 2017 WL 2588088, at \*3-4 (D. Nev. June 14, 2017) (Jones, J.).  
10 The parties did not alert the Court to the potential mootness of the retroactivity issue upon the  
11 issuance of *Bourne Valley*. The Court has noticed the issue, however, now that the parties have  
12 notified the Court of the issuance of the Nevada Supreme Court's opinion answering the certified  
13 question.


#### 14 CONCLUSION

15 IT IS HEREBY ORDERED that K&P Homes shall have twenty-one (21) days to show  
16 cause why title should not be quieted in Christiana Trust's favor. A response and reply shall be  
17 due in accordance with Local Rule 7-2(e).

18 IT IS SO ORDERED.

19 Dated this ~~16th~~ day of August, 2017.

20 *R. Jones*

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22 \_\_\_\_\_  
23 ROBERT C. JONES  
24 United States District Judge  
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