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7 Attorneys for CitiMortgage, Inc.

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 CITIMORTGAGE, INC.;

11 Plaintiff,

12 vs.

13 TIERRA DE LAS PALMAS OWNERS
ASSOCIATION; MARSHALL FAMILY
14 TRUST; and ABSOLUTE COLLECTION
SERVICES, LLC,

15 Defendants.

Case No.: 2:16-cv-00610-JCM-CWH

**STIPULATION AND ORDER TO AMEND
COMPLAINT TO REASSERT BREACH
OF NRS 116.1113 AND WRONGFUL
FORECLOSURE CLAIMS**

17 CitiMortgage, Inc. (**CMI**), Tierra de las Palmas Owners Association (**Tierra**), Marshall
18 Family Trust, and Absolute Collection Services, LLC (**Absolute**) stipulate and agree as follows:

19 **IT IS HEREBY STIPULATED AND AGREED** CMI may amend its complaint to reassert
20 its claims for breach of NRS 116.3113 and wrongful foreclosure claims against Tierra and Absolute.
21 The court dismissed these claims without prejudice on January 27, 2017 for failure to mediate
22 pursuant to NRS 38.310. ECF No. 29, at 4-5. CMI and Tierra mediated pursuant to NRS 38.310 on
23 February 7, 2017. CMI includes a copy of its proposed amended complaint as Exhibit 1 to this
24 stipulation.

25 . . .

26 . . .

{41506075;1}

1 This is the first request to amend and the request is not submitted for the purpose of delay or
2 to cause undue prejudice to any party.

3
4 Dated this 20th day of April, 2017.

Dated this 20th day of April, 2017.

5 **AKERMAN LLP**

PENGILLY LAW FIRM

6 /s/ Tenesa S. Scaturro
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Las Vegas, Nevada 89134
Attorney for Tierra de las Palmas Owners
Association

11 Dated this 20th day of April, 2017.

Dated this 20th day of April, 2017.

12 **RANDAL A. DESHAZER, ESQ.**

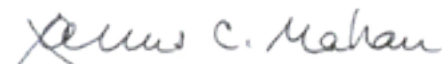
ABSOLUTE COLLECTION SERVICES, LLC

13
14 /s/ Randal A. Deshazer
15 **RANDAL A. DESHAZER, ESQ.**
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17 961 Pack Saddle Ct.
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Las Vegas, Nevada 89128
Attorney for Absolute Collection Services, LLC

ORDER

20 **IT IS SO ORDERED.**

21 
22 **UNITED STATES DISTRICT JUDGE**

23 April 24, 2017

24 **DATE**

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**INDEX OF EXHIBITS TO
STIPULATION AND ORDER TO AMEND COMPLAINT
CASE NO. 2:16-cv-00610-JCM-CWH**

Exhibit 1 Proposed First Amended Complaint

Exhibit 1

**Proposed First Amended Complaint
Case No. 2:16-cv-00610-JCM-CWH**

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10 CITIMORTGAGE, INC.;

11 Plaintiff,

12 vs.

13 TIERRA DE LAS PALMAS OWNERS
ASSOCIATION; MARSHALL FAMILY
14 TRUST; and ABSOLUTE COLLECTION
SERVICES, LLC,

15 Defendants.

Case No.: 2:16-cv-00610-JCM-CWH

FIRST AMENDED COMPLAINT

16
17 Plaintiff, CitiMortgage, Inc. (CMI) complains as follows:

18 **PARTIES AND JURISDICTION**

19 1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332. CMI is a
20 citizen of New York and Missouri and, on information and belief, none of the defendants are citizens
21 of New York or Missouri. The amount in controversy exceeds \$75,000.00.

22 2. CMI is a New York Corporation. Its principal office is in Missouri. Therefore,
23 pursuant to 28 U.S.C. § 1348, for purposes of diversity jurisdiction, CMI is deemed to be a citizen of
24 the states of New York and Missouri. The diversity of citizenship requirement is met. See Carolina
25 Casualty Ins. Co. v. Team Equipment, Inc., 741 F.3d 1082 (9th Cir. 2014). Defendants, Tierra De
26 Las Palmas Owners Asscoiation (**Tierra**), Marshall Family Trust (**MFT**), and Absolute Collection
27 Services, LLC (**Absolute**) are, on information and belief, not citizens of New York or Missouri. The
28

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1 amount in controversy requirement is met. CMI seeks a declaration that its deed of trust, which
2 secures a loan with a principal balance of \$153,956.21, was not extinguished by a homeowner's
3 association non-judicial foreclosure sale that is the basis for MFT's claim to title to the real property
4 sub judice.

5 3. Defendant, Tierra is a Nevada non-profit corporation. CMI is informed and believes
6 and therefore alleges Tierra is the purported beneficiary under an alleged homeowners' association
7 lien recorded October 7, 2011. CMI is informed and believes and therefore alleges Tierra foreclosed
8 on the lien via trustee's sale dated May 15, 2013.

9 4. Defendant MFT is, on information and belief, a private trust formed under the laws of
10 Nevada. After a reasonable search, CMI cannot determine the citizenship of the beneficiaries or
11 trustee of MFT. CMI is informed and believes and therefore alleges MFT purchased the property at
12 the HOA foreclosure sale, acquiring title via a Trustee's Deed Upon Sale recorded on May 16, 2013.

13 5. Defendant, Absolute is a Nevada limited liability company. After a reasonable
14 search, CMI cannot determine the citizenship of the members of Absolute. CMI is informed and
15 believes and therefore alleges Absolute conducted the foreclosure at issue in this case on behalf of
16 Tierra.

17 6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332 for reasons
18 stated above.

19 7. Venue is proper in this Court under 28 U.S.C. §1391. The property that is the subject
20 of this action is located at 5143 Marshall Island Court, North Las Vegas, Nevada 89031 (the
21 **property**). Venue is proper in this court under 28 U.S.C. § 1391(1) and (2) because this action seeks
22 to determine an interest in property located within Clark County, Nevada and because this lawsuit
23 arises out of a foreclosure of real property located within Nevada.

24 8. The issues addressed in this complaint were mediated by CMI and Tierra pursuant to
25 the provisions of NRS 38.300 to 38.360 on February 7, 2017. CMI and Tierra did not reach an
26 agreement. Absolute and Marshall Family Trust were notified of the February 7 mediation but did
27 not participate.

GENERAL ALLEGATIONS

1
2 9. Under Nevada state law, homeowners' associations have the right to charge property
3 owners residing within the community assessments to cover the homeowners' associations' expenses
4 for maintaining or improving the community, among other things.

5 10. When these assessments go unpaid, the association may impose a lien and then
6 foreclose on a lien if the assessments remain unpaid.

7 11. NRS Chapter 116 generally provides a non-judicial foreclosure scheme for a
8 homeowners' association to conduct a non-judicial foreclosure where the unit owner fails to pay its
9 monthly assessments.

10 12. NRS 116.3116 makes a homeowners' association lien for assessments junior to a first
11 deed of trust beneficiary's secured interest in the property, with one limited exception: a
12 homeowners' association lien is senior to a first deed of trust beneficiary's secured interest "to the
13 extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the
14 extent of the assessments for common expenses based on the periodic budget adopted by the
15 association pursuant to NRS 116.3115 which would have become due in the absence of acceleration
16 during the 9 months immediately preceding institution of an action to enforce the lien[.]" NRS
17 116.3116(2)(c).

The Deed of Trust and Assignment

18
19 13. On or about May 5, 2006, Lakeshia L. Spencer (**Spencer**) obtained a loan from
20 Countrywide Home Loans, Inc. in the amount of \$164,000.00, which was secured by a deed of trust
21 (the **senior deed of trust**) recorded against the property on May 15, 2006. A true and correct copy
22 of the senior deed of trust is recorded with the Clark County Recorder as **Instrument No. 20060515-**
23 **0003840**.

24 14. The senior deed of trust was assigned to CMI via an assignment of deed of trust on
25 December 13, 2011. A true and correct copy of the assignment is recorded with the Clark County
26 Recorder as **Instrument No. 20111214-0002099**. The assignment deed of trust was re-recorded to
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1 clarify the assignee name on March 6, 2013. A true and correct copy of this assignment is recorded
2 with the Clark County Recorder as **Instrument No. 20130306-0000517**.

3 The HOA Lien and Foreclosure

4 15. Upon information and belief, Spencer failed to pay Tierra all amounts due to it. On
5 October 7, 2011, Tierra, through its agent Absolute, recorded a notice of delinquent assessment lien.
6 The notice states the amount due to Tierra was \$816.71 but does not specify whether it includes
7 dues, interest, fees and collection costs in addition to assessments. A true and correct copy of the
8 notice of lien is recorded with the Clark County Recorder as **Instrument No. 20111007-0000329**.

9 16. On February 10, 2012, Tierra, through its agent Absolute, recorded a notice of default
10 and election to sell to satisfy the delinquent assessment lien. The notice states the amount due to
11 Tierra was \$1,696.98, but does not specify whether it includes dues, interest, fees and collection
12 costs in addition to assessments. A true and correct copy of the notice of default is recorded with the
13 Clark County Recorder as **Instrument No. 20120210-0000687**. The notice of default also does not
14 specify the super-priority amount claimed by Tierra and fails to describe the "deficiency in payment"
15 required by NRS 116.31162(1)(b)(1).

16 17. On December 7, 2012, Tierra, through its agent Absolute, recorded a notice of
17 trustee's sale. The trustee's sale was scheduled for February 12, 2013. The notice states the amount
18 due to Tierra was \$3,315.30, but does not specify whether it includes dues, interest, fees and
19 collection costs in addition to assessments. A true and correct copy of the notice of sale is recorded
20 with the Clark County Recorder as **Instrument No. 20121207-0001423**. The notice of sale does not
21 identify the super-priority amount claimed by Tierra and fails to describe the "deficiency in
22 payment" required by NRS 116.311635(3)(a).

23 18. In none of the recorded documents nor in any notice did Tierra and/or its agent
24 provide notice of the purported super-priority lien amount, where to pay the amount, how to pay the
25 amount or the consequences for failure to do so.

26 19. In none of the recorded documents nor in any notice did Tierra and/or its agent
27 specify whether it was foreclosing on the super-priority portion of its lien, if any, or on the sub-
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1 priority portion of its lien.

2 20. In none of the recorded documents nor in any notice did Tierra and/or its agent
3 specify the senior deed of trust would be extinguished by the Tierra foreclosure.

4 21. In none of the recorded documents nor in any notice did Tierra and/or its agent
5 identify any way by which the beneficiary under the senior deed of trust could satisfy the super-
6 priority portion of Tierra's claimed lien.

7 22. The deficiencies in the notices notwithstanding, Bank of America, N.A. as successor
8 by merger to BAC Home Loans Servicing, LP (**BANA**), as servicer of the loan, attempted to satisfy
9 the super-priority amount.

10 23. On or about February 17, 2012, after Tierra recorded its notice of default and prior to
11 the foreclosure sale, BANA requested a ledger from Tierra, through its agent Absolute, identifying
12 the super-priority amount allegedly owed. Tierra refused to respond to repeated requests for this
13 information.

14 24. Tierra's refusal to communicate and provide payoff information constitute a rejection
15 of BANA's tender.

16 25. Despite BANA's tender attempt, Tierra foreclosed on the property on or about May
17 14, 2013. A trustee's deed in favor of MFT was recorded May 16, 2013. A true and correct copy of
18 the foreclosure deed is recorded with the Clark County Recorder as **Instrument No. 20130516-**
19 **0003891.**

20 26. Upon information and belief, Absolute wrote in the foreclosure deed that the sale
21 price at the May 14, 2013 foreclosure sale was \$6,500.00. Tierra's sale of the property to MFT for
22 less than five percent (4.2%) of the value of the unpaid principal balance (\$153,956.21) on the senior
23 deed of trust, and, on information and belief, for a similarly diminutive percentage of the property's
24 fair market value, is commercially unreasonable and not in good faith as required by NRS 116.1113.

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FIRST CAUSE OF ACTION

(Quiet Title/Declaratory Judgment Against All Defendants)

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3 27. CMI repeats and re-alleges the preceding paragraphs as though fully set forth herein
4 and incorporates the same by reference.

5 28. Pursuant to 28 U.S.C. § 2201 and NRS 30.040 et seq., this Court is empowered to
6 declare the rights of parties and other legal relations of parties regarding the property at issue.

7 29. An actual controversy has arisen between CMI and defendants regarding the property.
8 The senior deed of trust is a first secured interest on the property. As a result of the May 14, 2013
9 Tierra foreclosure sale, MFT claims an interest in the property, and on information and belief, asserts
10 MFT owns the property free and clear of the senior deed of trust.

11 30. CMI's interest in the senior deed of trust encumbering the property constitutes an
12 interest in real property.

13 31. CMI is entitled to a declaration that Tierra's foreclosure did not extinguish the senior
14 deed of trust, or, alternatively, Tierra's foreclosure is void.

NRS Chapter 116 Violates CMI's Right to Procedural Due Process

15
16 32. CMI asserts that Chapter 116 of the Nevada Revised Statutes' scheme of HOA super-
17 priority non-judicial foreclosure violates the procedural due process rights of CMI under the state
18 and federal constitutions.

19 33. The Fourteenth Amendment of the United States Constitution and Article 1, Sec. 8, of
20 the Nevada Constitution protects CMI from being deprived of its deed of trust in violation of
21 procedural due process guarantees of notice and an opportunity to be heard.

22 34. CMI asserts that there is no way to apply Nevada's scheme of non-judicial HOA
23 super-priority foreclosure that complies with Nevada and the United States' respective guarantees of
24 procedural due process.

25 35. The Nevada Constitution does not expressly set forth a state action requirement.
26 Even if it did, and consistent with the state action requirements of the Federal Constitution, the state
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1 of Nevada has become sufficiently intertwined with HOA foreclosure such that state and federal
2 procedural due process protections for CMI's deed of trust apply, to wit:

3 a) The super-priority lien did not exist at common law, but rather is imposed by
4 statute.

5 b) In order to conserve governmental resources and fund the quasi-governmental
6 HOA, Nevada's legislature made super-priority mandatory, expanded the super-priority
7 duration from six to nine months, and declared it could not contractually subordinate its lien
8 by provisions within a HOA's covenants, conditions, and restrictions.

9 c) The super-priority lien has no nexus whatsoever to a private agreement
10 between Tierra and CMI, but, again, is imposed by legislative enactment.

11 d) Nevada and Clark County mandated the creation of Tierra as a quasi-
12 governmental entity to perform governmental functions including maintaining the common
13 open spaces and private streets within the Tierra community.

14 36. Since the state of Nevada is responsible for the creation of the super-priority lien and
15 has made it mandatory, then the state of Nevada's HOA super-priority is the result of state action
16 subject to procedural due process safeguards.

17 37. On its face, Nevada's scheme of non-judicial HOA super-priority foreclosure lacks
18 any pre-deprivation notice requirements or post deprivation redemption options that are necessary
19 components of due process:

20 a) NRS 116.31162 and NRS 116.311635 do not require that an HOA provide
21 CMI, or its predecessors, with written notice of the sum that constitutes the super-priority
22 portion of the assessment lien.

23 b) Chapter 116 of NRS seeks to insulate its scheme of super-priority non-judicial
24 foreclosure by failing to provide any post-sale right of equity or redemption.

25 c) Chapter 116 of NRS fails to provide CMI with a statutorily enforceable
26 mechanism to compel an HOA to inform CMI of the sum of the HOA super-priority amount.

1 38. CMI requests that this Court void the HOA foreclosure sale or declare MFT's title
2 was acquired subject to the senior deed of trust because NRS 116's scheme of HOA super-priority
3 foreclosure violates the procedural process clauses of The Fourteenth Amendment of the United
4 States Constitution and Article 1, Sec. 8, of the Nevada Constitution.

5 Additional Reasons the HOA Foreclosure Sale Did Not Extinguish the Senior Deed of Trust

6 39. The HOA sale is void or did not extinguish the senior deed of trust for additional
7 reasons stated below.

8 40. The foreclosure sale did not extinguish the senior deed of trust because the recorded
9 notices, even if they were in fact provided, failed to describe the lien in sufficient detail as required
10 by Nevada law, including, without limitation: whether the deficiency included a "super-priority"
11 component, the amount of the super-priority component, how the super-priority component was
12 calculated, when payment on the super-priority component was required, where payment was to be
13 made or the consequences for failure to pay the super-priority component. Alternatively, the
14 foreclosure sale is void.

15 41. The foreclosure sale did not extinguish the senior deed of trust because BANA
16 attempted to tender and satisfy the super-priority amount and Tierra wrongfully obstructed BANA's
17 tender attempt by refusing to provide a payoff ledger. Alternatively, the foreclosure sale is void.

18 42. The foreclosure sale did not extinguish the senior deed of trust because the sale was
19 commercially unreasonable or otherwise failed to comply with the good faith requirement of NRS
20 116.1113 in several respects, including, without limitation, the lack of sufficient notice, Tierra's
21 wrongful rejection of the tender, the sale of the property for a fraction of the loan balance or actual
22 market value of the property, a foreclosure that was not calculated to promote an equitable sales
23 prices for the property or to attract proper prospective purchasers, and a foreclosure sale that was
24 designed and/or intended to result in maximum profit for the Tierra, its agent and MFT at the sale
25 without regard to the rights and interest of those who have an interest in the loan and made the
26 purchase of the property possible in the first place. Alternatively, the foreclosure sale is void.

27 43. The foreclosure sale did not extinguish the senior deed of trust because otherwise the
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1 sale would violate CMI's rights to due process, as a result of Tierra's failure to provide sufficient
2 notice of the super-priority component of Tierra's lien, the manner and method to satisfy it, and the
3 consequences for failing to do so. Alternatively, the foreclosure sale is void.

4 44. The foreclosure sale did not extinguish the senior deed of trust because MFT does not
5 qualify as a bona fide purchaser for value, because it was aware of, or should have been aware of,
6 the existence of the senior deed of trust and the commercial unreasonableness of the Tierra sale.
7 Alternatively, the foreclosure sale is void.

8 45. CMI is entitled to a declaration, pursuant to 28 U.S.C. § 2201, NRS 30.040, and NRS
9 40.010, that the HOA sale did not extinguish the senior deed of trust, or, alternatively, the HOA sale
10 is void

11 46. CMI was required to retain an attorney to prosecute this action, and is therefore
12 entitled to collect its reasonable attorneys' fees and costs.

13 **SECOND CAUSE OF ACTION**

14 **(Breach of NRS 116.1113 against Tierra and Absolute)**

15 47. CMI repeats and re-alleges the preceding paragraphs as though fully set forth herein
16 and incorporates the same by reference.

17 48. NRS 116.1113 and common law provide that every contract or duty governed by this
18 chapter imposes an obligation of good faith in its performance or enforcement.

19 49. Tierra's recorded CC&Rs contain a subordinate to first mortgage clause which
20 represents that Tierra's entire lien will be subordinate to the senior deed of trust. A true and correct
21 copy of the CC&Rs is recorded with the Clark County Recorder as **Instrument No. 970627-00010**.

22 50. NRS Chapter 116 requires Tierra and its agent Absolute to comply with the
23 obligations of the CC&Rs, including the subordinate to first mortgage clause.

24 51. In making the representation in the CC&Rs that Tierra's lien would be subordinate to
25 a senior deed of trust, Tierra undertook a duty to inform lenders and loan servicers like CMI and
26 BANA that Tierra's representations regarding the priority of liens in the CC&Rs was false, and to
27 give CMI and BANA reasonable opportunity to protect their security interest in the property.

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1 52. Tierra also undertook a duty to identify the super-priority amount to lenders and loan
2 servicers like CMI and BANA, to inform them that their security interest were at risk, and to provide
3 an opportunity to satisfy the super-priority amount to protect their security interest in the property.

4 53. Tierra and its agent Absolute breached their duties of good faith by not complying
5 with the obligations in the CC&Rs that Tierra's lien would be subordinate to the senior deed of trust,
6 by not informing CMI or BANA that Tierra's representation in the CC&Rs regarding the priority of
7 liens was false, by not identifying the super-priority amount of Tierra's lien for CMI or BANA, by
8 not notifying CMI or BANA that their security interest was at risk, by rejecting BANA's attempt to
9 tender the super-priority amount, and by obstructing CMI's or BANA's ability to protect their
10 security interest in the property.

11 54. If it is determined Tierra's sale extinguished the senior deed of trust notwithstanding
12 the deficiencies, violations, and improper actions described herein, Tierra's and its agent Absolute's
13 breach of their obligations of good faith will cause CMI to suffer general and special damages in the
14 amount equal to the fair market value of the property or the unpaid principal balance of the loan at
15 issue, plus interest, at the time of the HOA sale, whichever is greater.

16 55. CMI was required to retain an attorney to prosecute this action, and is therefore
17 entitled to collect its reasonable attorneys' fees and costs.

18 **THIRD CAUSE OF ACTION**

19 **(Wrongful Foreclosure against Tierra and Absolute)**

20 56. CMI repeats and re-alleges the preceding paragraphs as though fully set forth herein
21 and incorporates the same by reference.

22 57. To the extent defendants contend or the court concludes Tierra's foreclosure sale
23 extinguished the senior deed of trust, the foreclosure was wrongful.

24 58. Because Tierra and its agent Absolute failed to give adequate notice and an
25 opportunity to cure the deficiency, the foreclosure was wrongful to the extent any defendant
26 contends it extinguished the senior deed of trust.

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1 59. Because Tierra and its agent Absolute sold the property for a grossly inadequate
2 amount, compared to the value of the property and amount of outstanding liens defendants contend
3 were extinguished by the foreclosure sale, the foreclosure was wrongful to the extent any defendant
4 contends it extinguished the senior deed of trust.

5 60. Because Tierra and its agent Absolute violated the representation in the CC&Rs that
6 Tierra's lien would be subordinate to a senior deed of trust, the foreclosure was wrongful to the
7 extent any defendant contends it extinguished the senior deed of trust.

8 61. Because Tierra and its agent Absolute violated the good faith requirements of NRS
9 116.1113, the foreclosure was wrongful to the extent any defendant contends it extinguished the
10 senior deed of trust.

11 62. If it is determined Tierra's foreclosure sale extinguished the senior deed of trust
12 notwithstanding the deficiencies, violations, and improper actions described herein, Tierra's and its
13 agent Absolute's actions will cause CMI to suffer general and special damages in the amount equal
14 to the fair market value of the property or the unpaid principal balance of the loan at issue, plus
15 interest, at the time of the sale, whichever is greater.

16 63. CMI was required to retain an attorney to prosecute this action, and is therefore
17 entitled to collect its reasonable attorneys' fees and costs.

18 **FOURTH CAUSE OF ACTION**

19 **(Injunctive Relief against MFT)**

20 64. CMI repeats and re-alleges the preceding paragraphs as though fully set forth herein
21 and incorporates the same by reference.

22 65. CMI disputes MFT's claim it owns the property free and clear of the senior deed of
23 trust.

24 66. Any sale or transfer of the property by MFT, prior to a judicial determination
25 concerning the respective rights and interests of the parties to this case, may be rendered invalid if
26 the senior deed of trust still encumbers the property in first position and was not extinguished by the
27 HOA sale.

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1 67. CMI has a substantial likelihood of success on the merits of the complaint, and
2 damages would not adequately compensate for the irreparable harm of the loss of title to a bona fide
3 purchaser or loss of the first position priority status secured by the property.

4 68. CMI has no adequate remedy at law due to the uniqueness of the property involved in
5 this case and the risk of the loss of the senior security interest.

6 69. CMI is entitled to a preliminary injunction prohibiting MFT, or its successors,
7 assigns, or agents, from conducting any sale, transfer, or encumbrance of the property that is claimed
8 to be superior to the senior deed of trust or not subject to the senior deed of trust.

9 70. CMI is entitled to a preliminary injunction requiring MFT to pay all taxes, insurance
10 and homeowner's association dues during the pendency of this action.

11 **PRAYER FOR RELIEF**

12 CMI requests the Court grant the following relief:

13 1. An order declaring that MFT purchased the property subject to CMI's senior deed of
14 trust;

15 2. In the alternative, an order that the HOA foreclosure sale, and any resulting
16 foreclosure deed, was void ab initio;

17 3. In the alternative, an order requiring Tierra and its agent Absolute to pay CMI all
18 amounts by which it was damaged as a result of Tierra's and Absolute's wrongful foreclosure and/or
19 violation of the good faith provisions of NRS 116.1113;

20 4. A preliminary injunction prohibiting MFT, its successors, assigns, or agents from
21 conducting any sale, transfer, or encumbrance of the property that is claimed to be superior to the
22 senior deed of trust or not subject to the senior deed of trust;

23 5. A preliminary injunction requiring MFT to pay all taxes, insurance, and homeowner's
24 association dues during the pendency of this action;

25 ///

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27 ///

- 6. Reasonable attorneys' fees as special damages and the costs of suit; and
- 7. For such other and further relief the Court deems proper.

DATED April 20, 2017.

AKERMAN LLP

/s/

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 Las Vegas, Nevada 89144

Attorneys for CitiMortgage, Inc.

VERIFICATION

STATE OF NEVADA §
 §
 COUNTY OF CLARK §

I, Tenesa Scaturro, in my capacity as counsel for CitiMortgage, Inc., am authorized to make this verification on behalf of it. I verify I have read paragraph 8 of CMI's first amended complaint, where it is alleged the parties mediated the issues presented in this complaint pursuant to NRS 38.300 et. seq. The information alleged in paragraph 8 is within my personal knowledge and is true and correct.

Tenesa Scaturro, Esq.

SIGNED AND SWORN on the ___ day of April, 2017.

Notary Public in and for the State of Nevada

AKERMAN LLP

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 LAS VEGAS, NEVADA 89144
 TEL.: (702) 634-5000 – FAX: (702) 380-8572

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ___ day of April, 2017 and pursuant to Federal Rule of Civil Procedure 5, I filed and served a true and correct copy of the foregoing **FIRST AMENDED COMPLAINT** via the Court's CM/ECF system on the following:

James W. Pengilly, Esq.
Elizabeth B. Lowell, Esq.
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/s/

An employee of AKERMAN LLP

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