

1 MICHAEL N. BEEDE, ESQ.  
 Nevada Bar No. 13068  
 2 JAMES W. FOX, ESQ.  
 Nevada Bar No. 13122  
 3 **THE LAW OFFICE OF MIKE BEEDE, PLLC**  
 2470 St. Rose Pkwy., Ste. 307  
 4 Henderson, NV 89074  
 5 eservice@legalLV.com  
 Telephone (702) 473-8406  
 6 Facsimile (702) 832-0248  
 7 *Attorneys for Plaintiff, LV Debt Collect, LLC*

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

10 LV DEBT COLLECT, LLC,

CASE NO. 2:16-cv-02857-APG-NJK

11 Plaintiff,

12 vs.

13 THE BANK OF NEW YORK MELLON FKA  
 14 THE BANK OF NEW YORK, AS TRUSTEE  
 FOR THE CERTIFICATEHOLDERS OF  
 15 CWMB, INC., CHL MORTGAGE PASS-  
 THROUGH CERTIFICATES, SERIES 2005-  
 16 02; MORTGAGE ELECTRONIC  
 17 REGISTRATION SYSTEMS, INC.;  
 NATIONS FIRST LENDING, INC.; WELLS  
 18 FARGO BANK, N.A.; and DOES 1 through  
 19 10, inclusive; ROE CORPORATIONS 1  
 through 10, inclusive,

**STIPULATION AND  
 [PROPOSED]ORDER TO AMEND  
 COMPLAINT**

**AND**

**REMAND ACTION TO STATE  
 COURT**

20 Defendants,  
 21

22 Plaintiff LV Debt Collect, LLC (hereafter "Plaintiff"), by and through its attorneys of record,  
 23 Michal N. Beede, Esq. and James W. Fox, Esq., of The Law Office of Mike Beede, PLLC, and  
 24 Defendant The Bank of New York Mellon fka The Bank of New York, as Trustee for the  
 25 Certificateholders of CWMB, Inc., CHL Mortgage Pass-Through Trust 2005-02 (hereafter  
 26 "BONY"), by and through its attorneys of record, Darren T. Brenner, Esq. and Tenesa S. Powell,  
 27 Esq., of Akerman, LLP, stipulate and agree to the following:  
 28

- 1 1. The parties hereto stipulate to add John L. Quinnear, as Trustee of The Q Family Trust  
2 Dated November 17, 2004; John L. Quinnear in his individual capacity, Nancy L.  
3 Quinnear, as Trustee of the Q Family Trust Dated November 17, 2004; Nancy L. Quinnear  
4 in her individual capacity; The Q Family Trust Dated November 17, 2004 (all previous  
5 owners); Eagle Rock Homeowners Association Homeowners Association/Previous  
6 Owner); and Nevada Association Services, Inc. (Agent for Homeowners Association) as  
7 Defendants.  
8 2. Plaintiff LV Debt Collect, LLC's proposed first amended complaint attached hereto as  
9 Exhibit 1 shall be filed with this court.

10 The parties further stipulate and agree to the following:

- 11 1. 28 U.S.C. Code § 1447(c) states:

12 A motion to remand the case on the basis of any defect other than lack of subject  
13 matter jurisdiction must be made within 30 days after the filing of the notice of  
14 removal under section 1446(a). If at any time before final judgment it appears that  
15 the district court lacks subject matter jurisdiction, the case shall be remanded. An  
16 order remanding the case may require payment of just costs and any actual expenses,  
including attorney fees, incurred as a result of the removal. A certified copy of the  
order of remand shall be mailed by the clerk to the clerk of the State court. The State  
court may thereupon proceed with such case.

- 17 2. Furthermore, 28 U.S.C. Code § 1447(e) states:

18 If after removal the plaintiff seeks to join additional defendants whose joinder would  
19 destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and  
20 remand the action to the State court.

21 Defendant Wells Fargo filed its Petition for Removal to this Court on December 9, 2016  
22 (ECF No. 1). However, Wells Fargo and Plaintiff have since resolved the claims between them  
23 and filed a dismissal and disclaimer of interest on 3/22/2019. Defendant MERS was served and  
24 has not yet filed a responsive pleading, on 3/21/2019 this court entered an order directing MERS  
25 to respond by 4/4/2019, MERS and Plaintiff are finalizing a disclaimer of MERS's interest which  
26 will be filed with the State Court after remand. A Clerk's Default against Nations First Lending,  
Inc. was entered on 3/22/2019.

27 Upon information and belief, all new Defendants included in Plaintiff's First Amended  
28 Complaint are individuals and corporations doing business in Nevada. Remaining Defendant The

1 Bank of New York Mellon fka The Bank of New York, as Trustee for the Certificateholders of  
2 CWMBBS, Inc., CHL Mortgage Pass-Through Trust 2005-02, Mortgage Pass-Through  
3 Certificates, Series 2005-02 (hereafter "BONY"), is a foreign corporation doing business in Clark  
4 County, Nevada, and have agreed to continue proceedings in the Eighth Judicial District Court in  
5 Clark County Nevada. As a result, complete diversity no longer exists among the parties, and this  
6 Court no longer retains subject matter jurisdiction.

7 Therefore, the parties stipulate to remand this action to the Eighth Judicial District Court  
8 in Clark County, Nevada.

9 DATED this 2<sup>nd</sup> day of April, 2019.

DATED this 2<sup>nd</sup> day of April, 2019.

10 THE LAW OFFICE OF MIKE BEEDE, PLLC

AKERMAN LLP

11 By: /s/ James W. Fox

By: /s/ Tenesa S. Powell

12 MICHAEL BEEDE, ESQ.

DARREN T. BRENNER, ESQ.

13 Nevada Bar No. 13068

Nevada Bar No. 8386

JAMES W. FOX, ESQ.

TENESA S. POWELL, ESQ.

14 Nevada Bar No. 13122

Nevada Bar No. 12488

2470 St. Rose Pkwy, Suite 307

1635 Village Center Circle, Suite 200

Henderson, NV 89074

Las Vegas, NV 89134

15 T: 702-473-8406

T: 702-634-5000

16 *Attorneys for Plaintiff, LV Debt Collect,*  
17 *LLC*

*Attorneys Defendant, Bank of New*  
*York Mellon fka Bank of New York, as*  
*Trustee for the Certificate Holders,*  
*CWMBBS, Inc., CHL Mortgage Pass-*  
*Through Trust 2005-02, Mortgage*  
*Pass-Through Certificates, Series*  
*2005-02*

**Case Name:** LV Debt Collect, LLC v.  
The Bank of New York Mellon, et al.  
**Case Number:** 2:16-cv-02857-APG-NJK

**ORDER**

The Court, having reviewed the stipulation of the parties, and good cause appearing therefore,

**IT IS HEREBY ORDERED** that Plaintiff is permitted to amend its Complaint to include John L. Quinnear, as Trustee of The Q Family Trust Dated November 17, 2004; John L. Quinnear in his individual capacity, Nancy L. Quinnear, as Trustee of the Q Family Trust Dated November 17, 2004; Nancy L. Quinnear in her individual capacity; The Q Family Trust Dated November 17, 2004; Eagle Rock Homeowners Association; and Nevada Association Services, Inc. as Defendants. The Amended Complaint attached hereto as Exhibit 1 shall be filed with this Court.

**IT IS FURTHER ORDERED** that the present action be remanded back to the Eighth Judicial District Court of Clark County Nevada.

**IT IS SO ORDERED.**

Dated this 3rd day of April, 2019.

  
\_\_\_\_\_  
**UNITED STATES DISTRICT JUDGE**

Submitted by:  
THE LAW OFFICE OF MIKE BEEDE, PLLC

By: /s/ James W. Fox  
MICHAEL BEEDE, ESQ.  
Nevada Bar No. 13068  
JAMES W. FOX, ESQ.  
Nevada Bar No. 13122  
2470 St. Rose Pkwy, Suite 307  
Henderson, NV 89074  
T: 702-473-8406  
*Attorneys for Plaintiff, LV Debt Collect, LLC*

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**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and that I am not a party to, not interested in, this action. On the 2<sup>nd</sup> day of April, 2019, I caused a true and correct copy of the foregoing **STIPULATION AND [PROPOSED]ORDER TO AMEND COMPLAINT AND REMAND ACTION TO STATE COURT** to be served to all parties in this litigation by the method indicated:

- U.S. Mail
- U.S. Certified Mail
- Facsimile Transmissions
- Federal Express
- Electronic Service via CM/ECF
- E-Mail

*/s/ Michael Madden*  
An Employee of The Law Office of Mike Beede, PLLC

# EXHIBIT 1

# EXHIBIT 1

1 MICHAEL N. BEEDE, ESQ.  
Nevada State Bar No. 13068  
2 JAMES W. FOX, ESQ.  
Nevada State Bar No. 13122  
3 **THE LAW OFFICE OF MIKE BEEDE, PLLC**  
2300 W Sahara Ave., Suite 420  
4 Las Vegas, NV 89102  
5 Telephone (702) 473-8406  
6 Facsimile (702) 832-0248  
7 eservice@legallv.com  
*Attorneys for Plaintiff*

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

9 LV DEBT COLLECT, LLC,

10 Plaintiff,

11 v.

12 JOHN L. QUINNEAR as Trustee of The Q  
Family Trust Dated November 17, 2004;  
13 JOHN L. QUINNEAR in his individual  
capacity; NANCY L. QUINNEAR as Trustee  
14 of The Q Family Trust Dated November 17,  
2004; NANCY L. QUINNEAR in her  
15 individual capacity; The Q Family Trust  
Dated November 17, 2004; EAGLE ROCK  
16 HOMEOWNERS ASSOCIATION;  
NEVADA ASSOCIATION SERVICES,  
17 INC.; THE BANK OF NEW YORK  
MELLON FKA THE BANK OF NEW  
18 YORK, AS TRUSTEE FOR THE  
CERTIFICATEHOLDERS OF CWMBS,  
19 INC., CHL MORTGAGE PASS-THROUGH  
TRUST 2005-02, MORTGAGE PASS-  
20 THROUGH CERTIFICATES, SERIES 2005-  
02; MORTGAGE ELECTRONIC  
21 REGISTRATION SYSTEMS, INC.;  
NATIONS FIRST LENDING, INC.; WELLS  
22 FARGO BANK, N.A.; and DOES 1 through  
23 10, inclusive; ROE CORPORATIONS 1  
through 10, inclusive,  
24  
25

26 Defendants.  
27  
28

CASE NO.: 2:16-CV-02857-APG-NJK

**PROPOSED AMENDED COMPLAINT:  
QUIET TITLE  
EXEMPTION FROM ARBITRATION:  
Title to real property**

1 COMES NOW, LV Debt Collect, LLC (hereafter, "Plaintiff"), by and through its attorney,  
2 Michael N. Beede, Esq., and hereby amends its complaint and alleges against the above-named  
3 Defendants as follows:

4 **PARTIES, JURISDICTION AND VENUE**

- 5 1. This action relates to the ownership and title to certain residential real property located  
6 in Clark County, Nevada commonly known as 516 Pinnacle Heights Lane and bearing  
7 Clark County Assessor's Parcel Number 138-30-312-031 (the "Property").  
8 Accordingly, jurisdiction and venue are appropriate in Clark County, Nevada.
- 9 2. Plaintiff, LV Debt Collect, LLC, is a limited liability company doing business in Clark  
10 County, Nevada, and is the record owner of the Property.
- 11 3. Upon information and belief, Defendant The Bank of New York Mellon fka The Bank  
12 of New York, as Trustee for the Certificateholders of CWMBS, Inc., CHL Mortgage  
13 Pass-Through Trust 2005-02, Mortgage Pass-Through Certificates, Series 2005-02  
14 (hereafter, "BONY") is a foreign corporation doing business in Clark County, Nevada.
- 15 4. Upon information and belief, Defendant Mortgage Electronic Registration Systems,  
16 Inc. (hereafter, "MERS") is a foreign corporation doing business in Clark County,  
17 Nevada.
- 18 5. Upon information and belief, Defendant Nations First Lending, Inc. (hereafter,  
19 "NFLI") is a foreign corporation doing business in Clark County, Nevada.
- 20 6. Upon information and belief, Defendant Wells Fargo Bank, N.A. (hereafter, "Wells  
21 Fargo") is a national association doing business in Clark County, Nevada.
- 22 7. Upon information and belief, Defendant John L. Quinnear (in his individual capacity  
23 and as trustee of the The Q Family Trust Dated November 17, 2004) is a resident of  
24 Clark County, Nevada, and was one of the owners of the Property prior to the issuance  
25 of a foreclosure deed to Eagle Rock Homeowners Association on June 14, 2011.
- 26 8. Upon information and belief, Defendant Nancy L. Quinnear (in her individual capacity  
27 and as trustee of the The Q Family Trust Dated November 17, 2004) is a resident of  
28



1 Clark County, Nevada, and was one of the owners of the Property prior to the issuance  
2 of a foreclosure deed to Eagle Rock Homeowners Association on June 14, 2011.

3 9. Because on information and belief its trustees are citizens of Nevada, Defendant, The  
4 Q Family Trust Dated November 17, 2004 is a citizen of Nevada.

5 10. Upon information and belief, Defendant Eagle Rock Homeowners Association  
6 (hereafter, "HOA") is a domestic non-profit corporation in Clark County, Nevada that  
7 holds an interest in the Property through the Declaration of Covenants, Conditions,  
8 and Restrictions adopted by same.

9 11. Upon information and belief, Defendant Nevada Association Services, Inc. (hereafter,  
10 "HOA Trustee") is a domestic corporation, doing business in Clark County, Nevada,  
11 and was the party responsible for conducting the foreclosure sale of the Property.

12 12. The true names and capacities, whether individual, corporate, associate or otherwise,  
13 of Does 1 through 10, inclusive, and Roe Business entities 1 through 10, inclusive, are  
14 unknown to the Plaintiff at this time. Plaintiff therefore sues said Does and Roes by  
15 said names, as Plaintiff believes that said Does and/or Roes are in some way  
16 responsible for some or all of Plaintiff's damages set forth herein. Plaintiff will request  
17 leave of this Court to amend its Complaint when such names and identities become  
18 known to it.

19 13. Jurisdiction and venue are proper in this Court because this action concerns real  
20 property located in the County of Clark, State of Nevada, and the facts, acts, events  
21 and circumstances herein mentioned, alleged and described occurred in the County of  
22 Clark, State of Nevada.

23 **GENERAL ALLEGATIONS**

24 14. The Property is located at 516 Pinnacle Heights Lane, bearing Clark County  
25 Assessor's Parcel Number 138-30-312-031, and the legal description of: Eagle Rock,  
26 Plat Book 73, Page 53, Lot 98, Block 2 Clark County.

- 1 15. Plaintiff's predecessor in interest, Eagle Rock Homeowners Association, obtained title  
2 to the Property by way of Foreclosure Deed issued pursuant to NRS 116 which was  
3 recorded on June 20, 2011.
- 4 16. This title to the Property was transferred to Plaintiff by way of a Quit Claim Deed  
5 recorded with the Clark County Recorder on July 2, 2013 as instrument no.  
6 201307020002262.
- 7 17. Pursuant to NRS 116.31166, and *Deutsche Bank Nat'l Trust Co. v. Roland*, 2014 Nev.  
8 Unpub. LEXIS 507; 2014 WL 1319106, it is conclusively proved that each of the  
9 Defendants was noticed by Nevada Association Services, Inc. of the underlying  
10 foreclosure sale and that all relevant provisions of NRS 116 were complied with. A  
11 copy of the Notice of Foreclosure Sale was recorded on November 19, 2010.
- 12 18. Plaintiff's title stems from a Foreclosure Deed arising from a delinquency in  
13 assessments due from the former owners, Defendants John L. Quinnear and Nancy L.  
14 Quinnear, as trustees for the Q Family Trust Dated November 17, 2004, to Eagle Rock  
15 Homeowners Association pursuant to NRS Chapter 116.
- 16 19. Eagle Rock Homeowners Association took title to the Property free and clear of all  
17 junior liens and encumbrances affecting title to the Property, including any Deed of  
18 Trust, any assessments or other fees claimed in its role as the homeowners association  
19 accruing prior to the date of the Deed, and any claim to title of the Property that may  
20 be asserted to by Defendants.
- 21 20. Notwithstanding the recording of the Deed on June 20, 2011, Plaintiff is informed and  
22 believes that Defendants claim to continue to hold an interest in the Property superior  
23 to that of Plaintiff's by virtue of their purported Deed of Trust.
- 24 21. Plaintiff is informed and believes Nancy L. Quinnear granted a deed of trust in favor  
25 of NFLI, naming MERS as beneficiary, which was recorded with the Clark County  
26 Recorder on December 2, 2004.

- 1 22. On December 24, 2012, an assignment of the aforementioned Deed of Trust was  
2 recorded which purported to transfer the beneficial interest thereof from NFLI to  
3 BONY.
- 4 23. Plaintiff is informed and believes that Nancy L. Quinnear, as Trustee for the Q Family  
5 Trust Dated November 17, 2004 also granted an open-ended deed of trust in favor of  
6 Wells Fargo, which was recorded with the Clark County Recorder on August 2, 2007.
- 7 24. No subsequent assignments of the Wells Fargo deed of trust were recorded.
- 8 25. The claims to title of the Property asserted by each Defendant conflict with Plaintiff's  
9 claim to title and constitute a cloud upon title.
- 10 26. The interest of each of the Defendants, if any, has been extinguished by virtue of the  
11 foreclosure sale, which was properly conducted with adequate notice given to all  
12 persons and entities claiming a recorded interest in the subject property, and resulting  
13 from a delinquency in assessments due from the former owner, to Eagle Rock  
14 Homeowners Association, pursuant to NRS Chapter 116 and *SFR Invs. Pool 1, LLC*  
15 *v. U.S. Bank, N.A.*, 334 P.3d 408 (2014).
- 16 27. Therefore, Plaintiff brings the instant action to quiet all claims against all known  
17 persons and/or entities claiming legal or equitable interests in the Property.

18  
19 **ALTERNATIVE ALLEGATIONS**

- 20 28. Plaintiff pleads the following facts in the alternative:
- 21 29. On July 3, 2013 Defendant Nanci L. Quinnear, in her individual capacity and in her  
22 capacity as Trustee of The Q Family Trust dated November 17, 2004, executed a  
23 "Grant, Bargain, Sale Deed" to the subject property in favor of LV Debt Collect, LLC.
- 24 30. Pursuant to NRS 111.170(1)(b), Grant, Bargain, Sale Deeds must be construed to  
25 include a covenant with the Grantee "That the real property is, at the time of the  
26 execution of the conveyance, free from encumbrances, done, made or suffered by the  
27 grantor, or any person claiming under the grantor."
- 28

1 31. NRS 111.170(2) provides that "Such covenants may be sued upon in the same manner  
2 as if they had been expressly inserted in the conveyance."

3 32. If any of the Deeds of Trust described in the foregoing paragraphs remain as valid  
4 encumbrances on the subject property, Defendant Nanci L. Quinnear, in her individual  
5 capacity and in her capacity as Trustee of The Q Family Trust dated November 17,  
6 2004, and Defendant, The Q Family Trust dated November 17, are liable for damages  
7 resulting from a violation of the covenant which is inherent in the Grant, Bargain, Sale  
8 deed.

9  
10 **FIRST CLAIM FOR RELIEF ACTION**

11 **(Declaratory Relief/Quiet Title Pursuant to NRS 30.010, et. seq. and NRS 116, et. seq.**

12 **Against All Defendants)**

13 33. Plaintiff incorporates each and every of the preceding paragraphs as if fully set forth  
14 herein.

15 34. Pursuant to NRS 30.030, et seq. and NRS 40.010, this Court has the power and  
16 authority to declare Plaintiff's rights and interests in the Property and to resolve the  
17 Defendants' adverse claims to the Property.

18 35. Plaintiff's predecessor in interest, Eagle Rock Homeowners Association, acquired the  
19 Property by successfully bidding on the Property at a public sale held on May 27, 2011  
20 in accordance with NRS Chapter 116, and became the rightful owner of the Property  
21 by virtue of the Foreclosure Deed.

22 36. Plaintiff obtained title to the Property through the execution of a Quit Claim Deed,  
23 recorded on July 2, 2013, as instrument no. 201307020002262, and is the rightful  
24 owner of the Property by virtue of the aforementioned Quit Claim Deed.

25 37. Upon information and belief, the Defendants herein assert claims to the Property  
26 adverse to that of Plaintiff.

27 38. Plaintiff is entitled to a declaratory judgment from this court finding that: (1) Plaintiff  
28 owns the Property in fee simple free and clear of any interest in the Property claimed

1 by any and all Defendants; (2) the Deed is valid and enforceable; (3) the conveyance  
2 of the Property to Eagle Rock Homeowners Association through the Foreclosure Deed  
3 extinguished Defendants' security and/or ownership interests in the Property; (4) any  
4 attempt to transfer of title to the Property through a non-judicial foreclosure sale  
5 pursuant to any Deed of Trust would be invalid; and (5) Plaintiff's rights and interest  
6 in the Property are superior to any adverse interests claimed by Defendants.

7 39. Plaintiff seeks an Order from the Court quieting title to the Property in favor of the  
8 Plaintiff.

9 **SECOND CLAIM FOR RELIEF**

10 **(Preliminary and Permanent Injunction against all Defendants)**

11 40. Plaintiff incorporates each and every of the preceding paragraphs as if fully set forth  
12 herein.

13 41. Plaintiff's predecessor in interest, Eagle Rock Homeowners Association, acquired the  
14 Property by successfully bidding on the Property at a public sale held on May 27, 2011  
15 in accordance with NRS Chapter 116, and became the rightful owner of the Property  
16 by virtue of the Foreclosure Deed.

17 42. Plaintiff obtained title to the Property through the execution of a Quit Claim Deed,  
18 recorded on July 2, 2013, as instrument no. 201307020002262, and is the rightful  
19 owner of the Property by virtue of the aforementioned Quit Claim Deed.

20 43. Notwithstanding the conveyance of the Property to Plaintiff, Defendants continue to  
21 claim adverse interests in the Property through the Deeds of Trust.

22 44. Plaintiff is informed and believes that one or more Defendants may improperly  
23 attempt to complete a non-judicial foreclosure sale of the Property under one of the  
24 Deeds of Trust pursuant to NRS Chapter 107.080, et seq. despite the fact that Plaintiff  
25 holds a superior interest in the Property.

26 45. Plaintiff is entitled to a preliminary injunction and permanent injunction prohibiting  
27 all Defendants from initiating or attempting to complete any foreclosure proceeding  
28

1 under either Deed of Trust, or otherwise attempting to transfer title to the Property  
2 thereunder.

3 **THIRD CLAIM FOR RELIEF**

4 **(Breach of Contract against Defendants The Q Family Trust dated November 17,**  
5 **2004 and Nanci L. Quinnear, in her individual capacity and in her capacity as Trustee of**  
6 **The Q Family Trust dated November 17, 2004, and Defendant)**

7 46. Plaintiff and Defendants entered into a valid and existing contract as evidence by the  
8 Grant, Bargain, Sale Deed granted by the Defendants to Plaintiff.

9 47. Plaintiff performed its duties under the contract.

10 48. If the property was encumbered at the time the Deed was granted, Defendants failed  
11 to perform and were not excused from performing the duty they owed Plaintiff.

12 49. If the property was encumbered at the time the Deed was granted, Plaintiff sustained  
13 damages as a result of the breach.

14  
15 **PRAYER FOR RELIEF**

16 **WHEREFORE, Plaintiff prays for relief as follows:**

- 17 1. For a determination and declaration that Plaintiff is the rightful owner of title to  
18 the Property, free and clear of all claims of the Defendants;
- 19 2. For and award of special damages, including reasonable attorneys' fees;
- 20 3. For court costs incurred;
- 21 4. For such other and further relief as the Court deems just and proper.
- 22 5. For a preliminary and permanent injunction prohibiting all Defendants from  
23 initiating or continuing foreclosure proceedings or otherwise attempting to transfer  
24 title to the Property;

25  
26 **In the alternative Plaintiff prays for relief as follows:**

- 27 6. For a judgment against The Q Family Trust dated November 17, 2004 and Nanci  
28 L. Quinnear, in her individual capacity and in her capacity as Trustee of The Q

1 Family Trust dated November 17, 2004, for damages which resulted from a breach  
2 of the covenants inherent in the Grant, Bargain, Sale Deed.

- 3 7. For court costs incurred;  
4 8. For such other and further relief as the Court deems just and proper.

5  
6 DATED this 13<sup>th</sup> day of March 2019.

7  
8 THE LAW OFFICE OF MIKE BEEDE, PLLC

9  
10 BY: /s/James W. Fox  
11 MICHAEL N. BEEDE, ESQ.  
12 Nevada State Bar No. 13068  
13 JAMES W. FOX, ESQ.  
14 Nevada State Bar No. 13122  
15 2300 W Sahara Ave., Suite 420  
16 Las Vegas, NV 89102  
17 Telephone (702) 473-8406  
18 *Attorneys for Plaintiff*  
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21  
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