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9 *Green Tree Servicing, LLC and Federal*
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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

13 DITECH FINANCIAL LLC f/k/a GREEN
14 TREE SERVICING, LLC; FEDERAL
NATIONAL MORTGAGE ASSOCIATION,

15 Plaintiffs,

16 v.

17 PARK AVENUE HOMEOWNERS
18 ASSOCIATION; and RED ROCK FINANCIAL
19 SERVICES, LLC,

20 Defendants.

21 AND ALL RELATED CLAIMS
22

Case No.: 2:16-cv-03021-JAD-NJK

**STIPULATION AND ORDER OF FINAL
JUDGMENT CONFIRMING VALIDITY
OF DEED OF TRUST**

ECF Nos. 38, 46

23 Plaintiffs Ditech Financial LLC f/k/a Green Tree Servicing, LLC (**Ditech**) and Federal
24 National Mortgage Association (**Fannie Mae**), defendant and cross-claimant Park Avenue
25 Homeowners Association (**Park Avenue**), and defendant and cross-defendant Red Rock Financial
26 Services, LLC (**Red Rock**), through their counsel of record, stipulate as follows:

27 1. This matter relates to real property at located 87 East Agate Avenue, #206, Las Vegas,
28 Nevada, APN 177-21-215-092 (the **Property**). The Property is more specifically described as:

1 **PARCEL I:**

2 ONE (1) ALLOCATED INTEREST (EXCEPT ASSOCIATION PROPERTY) AS TENANT IN
3 COMMON IN THE COMMON ELEMENTS WITHIN PHASE 1 OF **PARK AVENUE**
4 **CONDOMINIUMS UNIT I** AS SHOWN BY MAP THEREOF ON FILE IN BOOK 99 OF PLATS,
5 PAGE 24, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA,
6 AS PHASES ARE ANNEXED, THE ALLOCATED INTEREST FOR EACH UNIT WILL BE A
FRACTION, THE NUMERATOR OF WHICH WILL BE ONE (1), AND THE DENOMINATOR,
OF WHICH WILL BE THE TOTAL OF ALL UNITS IN ALL PHASES THAT BECOME SUBJECT
TO THE DECLARATION.

7 EXCEPTING THEREFROM ALL LIVING UNITS AND ASSOCIATION PROPERTY IN PHASE
8 1 OF **PARK AVENUE CONDOMINIUMS UNIT 1**

9 AND RESERVING THEREFROM THE RIGHT TO POSSESSION OF ALL THOSE AREAS
10 DESIGNATED AS LIMITED COMMON ELEMENTS AS SHOWN UPON THE PLAT
REFERRED TO ABOVE.

11 AND FURTHER RESERVING THEREFROM FOR THE BENEFIT OF THE OWNERS OF
12 CONDOMINIUMS IN SUBSEQUENT PHASES, NON-EXCLUSIVE EASEMENT ON OVER
13 AND ACROSS THE ASSOCIATION AREAS AS DEFINED AND SHOWN UPON THE PLAT
14 REFERRED TO ABOVE FOR INGRESS, EGRESS AND RECREATIONAL USE, SUBJECT TO
15 THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR **PARK**
16 **AVENUE CONDOMINIUMS** A COMMON INTEREST CONDOMINIUM DEVELOPMENT
RECORDED AUGUST 3, 2001 IN BOOK 20010803 AS DOCUMENT NO 00962 AS THE SAME
MAY FROM TIME TO TIME BE AMENDED AND/OR SUPPLEMENTED, TO WHICH
REFERENCE IS HEREAFTER MADE.

17 **PARCEL II:**

18 LIVING UNIT 206 IN BUILDING 19 OF **PARK AVENUE CONDOMINIUMS UNIT 1** AS
19 SHOWN BY MAP THEREOF ON FILE IN BOOK 99 OF PLATS, PAGE 24 IN THE OFFICE OF
THE COUNTY RECORDER OR CLARK COUNTY, NEVADA

20 **PARCEL III:**

21 THE EXCLUSIVE RIGHT TO USE, POSSESSION AND OCCUPANCY OF THOSE PORTIONS
22 OF THE LIMITED COMMON ELEMENTS DESCRIBED IN SECTION 2.3 OF THE
23 COVENANTS, CONDITIONS, AND RESTRICTIONS, AND DEPICTED AS PARKING SPACE
P130, WHICH ARE APPURTENANT TO AND FOR THE EXCLUSIVE USE OF PARCEL TWO.

24 **PARCEL IV:**

25 A NON-EXCLUSIVE EASEMENT ON AND OVER THE ASSOCIATION PROPERTY (AS
26 DEFINED IN THE DECLARATION) FOR ACCESS, USE, OCCUPANCY, ENJOYMENT,
27 INGRESS, EGRESS AND USE OF THE AMENITIES LOCATED THEREON, SUBJECT TO THE
28 TERMS AND PROVISION OF THE DECLARATIONS. THIS EASEMENT IS APPURTENANT
TO PARCEL ONE (1) TWO (2) AND THREE (3) ABOVE DESCRIBED.

2. Ditech, on Fannie Mae's behalf, is the beneficiary of record of a Deed of Trust that encumbers the Property and was recorded on August 27, 2004, as Instrument No. 20040827-0004911 (the **Deed of Trust**).

3. On July 23, 2012, Park Avenue recorded a Foreclosure Deed as Instrument No. 201207230001659 (the **HOA Foreclosure Deed**), reflecting that Park Avenue purchased the Property at a foreclosure sale of the Property held on July 17, 2012 (the **HOA Sale**).

4. Park Avenue has not transferred its interest and is currently the title holder of record.

5. On December 29, 2016, Ditech and Fannie Mae initiated an action for quiet title and damages against Park Avenue and Red Rock in the United States District Court, District of Nevada, Case No. 2:16-cv-023021-JAD-NJK.

6. Ditech, Fannie Mae, and Park Avenue have entered into a settlement agreement in which Ditech and Fannie Mae have resolved all claims against Park Avenue and Red Rock.

7. The parties have agreed as part of their settlement agreement that the Deed of Trust survived and was not extinguished in any capacity by the HOA Sale or the recording of the HOA Foreclosure Deed. The Deed of Trust remains a valid encumbrance against the Property following the recording of the HOA Foreclosure Deed, and Park Avenue's interest in the Property is subject to the Deed of Trust. This stipulation is made for purposes of this action only and is not a waiver by any Party of its legal position in any other case or an admission of liability in this or any other action.

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8. Based on this stipulation, Ditech stipulates to dismissing its breach of NRS 116.1113 and wrongful foreclosure claims against Park Avenue and Red Rock, and Park Avenue stipulates to dismissing its cross-claims against Red Rock, with prejudice.

DATED this 3rd day of December, 2019.

AKERMAN LLP

/s/ Scott R. Lachman

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ORDER

Based on the **stipulation [46]** between plaintiffs Ditech Financial LLC f/k/a Green Tree Servicing, LLC (**Ditech**) and Federal National Mortgage Association (**Fannie Mae**), defendant and cross-claimant Park Avenue Homeowners Association (**Park Avenue**), and defendant and cross-defendant Red Rock Financial Services, LLC (**Red Rock**), the Parties' agreement, and good cause appearing therefore,

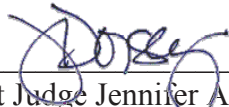
IT IS ORDERED that the Deed of Trust recorded in the Official Records of Clark County, Nevada against the real property located at 87 East Agate Avenue, #206, Las Vegas, Nevada, APN 177-21-215-092 (the **Property**) on August 27, 2004, as Instrument No. 20040827-0004911 was not extinguished, impaired, or otherwise affected by the foreclosure sale conducted by Park Avenue on July 17, 2012, or the recording of the Foreclosure Deed in the Official Records of Clark County, Nevada on July 23, 2012, as Instrument No. 201207230001659, reflecting that Park Avenue purchased the Property at the HOA Foreclosure Sale. Park Avenue's interest in the Property is subject to the Deed of Trust.

IT IS FURTHER ORDERED that Ditech and Fannie Mae shall be entitled to record this STIPULATION AND ORDER OF FINAL JUDGMENT CONFIRMING VALIDITY OF DEED OF TRUST in the Official Records of Clark County, Nevada in accordance with the rules of the Recorder's Office. This Order shall be only be recorded against the Property and shall not be recorded against Park Avenue.

IT IS FURTHER ORDERED Ditech's breach of NRS 116.1113 and wrongful foreclosure claims against Park Avenue and Red Rock, and Park Avenue's cross-claims against Red Rock, are dismissed with prejudice.

IT IS FURTHER ORDERED that this order constitutes the final judgment of this Court, resolving all claims in this case with prejudice, each party to bear its own fees and costs.

The Motion for Summary Judgment [**ECF No. 38**] is **DENIED** as moot, and the Clerk of Court is directed to **CLOSE THIS CASE**.



U.S. District Judge Jennifer A. Dorsey
Dated: December 4, 2019