

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

PROF-2013-S3 LEGAL TITLE TRUST V,  
BY U.S. BANK NATIONAL ASSOCIATION,  
AS LEGAL TITLE TRUSTEE,

Case No. 2:17-CV-1933 JCM (GWF)

ORDER

Plaintiff(s),

v.

FLYING FROG AVENUE TRUST, et al.,  
et al.,

Defendant(s).

Presently before the court is the matter of Prof-2013-S3 Legal Title Trust V, By U.S. Bank National Association v. Flying Frog Avenue Trust, case number 2:17-cv-01933-JCM-GWF. On September 19, 2018, this court granted defendant Red Rock Financial Services, LLC's ("Red Rock") motion to dismiss and defendant Flying Frog Avenue Trust's ("Flying Frog") motion for summary judgment. (ECF No. 59). The court denied plaintiff Prof-2013-S3 Legal Title Trust V by U.S. Bank National Association as Legal Title Trustee's ("U.S. Bank") motion for summary judgment. *Id.* Thus, the court quieted title in Flying Frog's favor and entered judgment accordingly. *Id.*; (see also ECF No. 60). U.S. Bank appealed. (ECF No. 61).

Relying on *Bank of Am., N.A. v. SFR Invs. Pool 1, LLC*, 427 P.3d 113, 117–18 (Nev. 2018) ("Diamond Spur") (en banc), and *Bank of Am., N.A. v. Arlington W. Twilight Homeowners Ass'n*, 920 F.3d 620, 623 (9th Cir. 2019) (per curiam), both of which were decided after this court's order, the Ninth Circuit reversed this court's decision. (ECF No. 63). The Ninth Circuit held that U.S. Bank's predecessor tendered the amount necessary to preserve its interest. *Id.* at 2–3. As a result,

1 the valid tender discharged the superpriority amount of the HOA's lien, and U.S. Bank's first  
2 security interest survived the foreclosure sale. Id. at 3.

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that the court's prior order  
5 (ECF No. 59) be, and the same hereby is, VACATED.

6 IT IS FURTHER ORDERED that U.S. Bank's motion for summary judgment (ECF No.  
7 46) be, and the same hereby is, GRANTED.

8 IT IS FURTHER ORDERED that Flying Frog's motion for summary judgment (ECF No.  
9 45) be, and the same hereby is, DENIED.

10 IT IS FURTHER ORDERED that Red Rock's motion to dismiss (ECF No. 19) be, and the  
11 same hereby is, GRANTED.<sup>1</sup>

12 IT IS FURTHER ORDERED that defendant Flying Frog's motion to dismiss (ECF No.  
13 21) be, and the same hereby is, DENIED as moot.

14 The clerk is instructed to enter judgment quieting title in U.S. Bank's favor.

15 DATED June 12, 2020.

16   
17 \_\_\_\_\_  
18 UNITED STATES DISTRICT JUDGE

19  
20  
21  
22  
23  
24  
25  
26  
27 \_\_\_\_\_  
28 <sup>1</sup> The parties did not challenge this court's order as it pertains to Red Rock's motion to  
dismiss. (See generally ECF No. 63).