

SMITH LARSEN & WIXOM

A T T O R N E Y S  
HILLS CENTER BUSINESS PARK  
1935 VILLAGE CENTER CIRCLE  
LAS VEGAS, NEVADA 89134  
TEL (702) 252-5002 • FAX (702) 252-5006

1 Kent F. Larsen, Esq.  
2 Nevada Bar No. 3463  
3 Joseph T. Prete, Esq.  
4 Nevada Bar No. 9654  
5 SMITH LARSEN & WIXOM  
6 Hills Center Business Park  
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11 Attorneys for California Reconveyance Company

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

12 FRED MESI and ERIC MESI, )  
13 )  
14 Plaintiffs, )

CASE NO: 3:09-cv-00582-JCM-VPC

15 vs. )

**CALIFORNIA RECONVEYANCE  
COMPANY'S MOTION TO EXPUNGE/  
CANCEL LIS PENDENS**

16 WASHINGTON MUTUAL F. A., a Federal )  
17 Savings Bank; CALIFORNIA )  
18 RECONVEYANCE COMPANY, a Foreign )  
19 California Corporation; LaSALLE BANK, N. A.)  
20 as Trustee for Wa Mu MORTGAGE )  
21 PASS- THROUGH CERTIFICATES SERIES )  
22 2006-AR7 TRUST; WESTERN EXCHANGE )  
23 SERVICES CORP, a Nevada Corporation, )  
24 WESTERN TITLE COMPANY, INC., a )  
25 Nevada Corporation; GENEVA MARTRAKUS,)  
26 DANITA F. FALLEN, and MESHELLE )  
27 BAGGERMAN, individually; MORTGAGE )  
28 ELECTRONIC REGISTRATION SYSTEM, )  
INC., a subsidiary of MERSCORP, INC., a )  
Delaware corporation, [MERS]; BANK OF )  
AMERICA CORPORATION, N.A.; and )  
DOES 1-25 CORPORATIONS, DOES and )  
ROES 1-25 Individuals, [Partnerships, or )  
anyone claiming any interest to the property )  
described in the action, )

**[REQUEST FOR EXPEDITED  
HANDLING PURSUANT TO LR 6-1]**

Defendants. )

SMITH LARSEN & WIXOM  
ATTORNEYS  
HILLS CENTER BUSINESS PARK  
1935 VILLAGE CENTER CIRCLE  
LAS VEGAS, NEVADA 89134  
TEL (702) 252-5002 • FAX (702) 252-5006

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Defendant, California Reconveyance Company, by and through its undersigned counsel respectfully moves this Court for an order expunging a notice of lis pendens recorded by Plaintiffs (through their former counsel) in connection with the above referenced action. A copy of that notice of lis pendens is attached hereto as **Exhibit A**.

As this Court is aware, this case involved the non-judicial foreclosure proceeding relative to the real property located at 1329 Winnie’s Lane, Fernley, Lyon County, Nevada 89408 (APN 022-226-04) (the “Property”). Plaintiffs’ former counsel prepared and recorded the lis pendens, which was recorded on August 25, 2009, in the Official Records of the Lyon County, Nevada Recorder, as Document No. 447286 (*see Exhibit A*).

On January 29, 2013, California Reconveyance Company filed a motion to expunge lis pendens which was denied by Court Order dated March 25, 2013 because, in the Court’s determination, the lawsuit had not yet been dismissed as against all remaining defendants. (*See Doc. # 84.*)

On July 24, 2013, Lasalle Bank filed a motion to dismiss (Doc. # 88) which was granted by Court Order dated November 15, 2013. (*See Doc. # 96.*) The November 15, 2013 Order explained, in pertinent part:

Plaintiffs are defaulting borrowers who originally filed suit in Nevada state court against ten separate defendants challenging their standing to foreclose on plaintiffs’ property and alleging that defendants engaged in predatory lending. The case was removed to this court on October 1, 2009 (*See doc. #1*). Notices of related cases and tag-along actions were then filed. The case was subsequently consolidated with four other actions and transferred to the Multidistrict Litigation Panel (“MDL”) in the United States District Court for the District of Arizona. Through a series of transfers, remands, stipulations for dismissal, and motions to dismiss, **all defendants within this court’s jurisdiction have been dismissed except for defendant LaSalle, who now requests to be dismissed from the action. ... IT IS HEREBY ORDERED, ADJUDGED, and DECREED that defendant LaSalle Bank’s motion to dismiss with prejudice (Doc. #88) be, and the same hereby is, GRANTED.**

(*Id.*, emphasis added.)

1 As this litigation has now concluded as against all named defendants, Defendant California  
2 Reconveyance Company is requesting the Court herein issue an order expunging the referenced  
3 notice of lis pendens.<sup>1</sup> A copy of a proposed form of order is attached hereto as **Exhibit B** for the  
4 Court's convenience.  
5

6 Dated this 19 day of November, 2013.

7 SMITH LARSEN & WIXOM

8 

9 Kent F. Larsen, Esq.  
10 Nevada Bar No. 3463  
11 Joseph T. Prete, Esq.  
12 Nevada Bar No. 9654  
13 Hills Center Business Park  
14 1935 Village Center Circle  
15 Las Vegas, Nevada 89134  
16 Tel: (702) 252-5002  
17 Fax: (702) 252-5006  
18 Email: [kfl@slwlaw.com](mailto:kfl@slwlaw.com)  
19 Attorneys for California  
20 Reconveyance Company

21 \_\_\_\_\_  
22 1

23 NRS 14.015(1) provides that after a lis pendens is filed, the defendant may request and is entitled  
24 to a hearing on the matter which must be set "as soon as is practicable, taking precedence over all other civil  
25 matters except a motion for a preliminary injunction." At the hearing, the party who recorded the lis pendens  
26 must establish, among other things, that the action was not brought in bad faith, that he is able to perform  
27 any conditions precedent to the relief sought in the action as it affects the title or possession of the property,  
28 and that he is likely to prevail in the action or has a fair chance of prevailing and would suffer greater  
hardship than the defendant if the lis pendens were expunged and title were transferred. NRS 14.015(2) and  
(3). Plaintiffs do not have a likely chance, or even a fair chance, of prevailing on the merits, as required by  
NRS 14.015(2) and (3), as the Court has dismissed this case as against all named defendants. Therefore,  
Plaintiffs' notice of lis pendens should be expunged by this Court.

SMITH LARSEN & WIXOM

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LAS VEGAS, NEVADA 89134  
TEL (702) 252-5002 • FAX (702) 252-5006

**CERTIFICATE OF SERVICE**

I hereby certify that on November 19<sup>th</sup>, 2013, a copy of the foregoing **California Reconveyance Company's Motion to Expunge/Cancel Notice of Lis Pendens**, was served electronically via CM/ECF, or by mail, postage prepaid, to the following:

Fred Mesi  
Eric Mesi  
1329 Winnie's Lane  
Fernley, Nevada 89408  
Plaintiffs in proper person  
(Served Via U.S. Mail)

Courtesy Copy to:

Rick Lawton, Esq.  
1460 Highway 95A, North, Ste. 1  
Fernley, NV 89408



\_\_\_\_\_  
An employee of Smith Larsen & Wixom

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LAS VEGAS, NEVADA 89134  
TEL (702) 262-5002 • FAX (702) 262-5006

**EXHIBIT A**

APN# 022-226-01

**Recording Requested by:**

Name LAW OFFICE RICK LANTON

Address 5435 BEND HWY

City/State/Zip 1971009, NV 89406

**Mail Tax Statements to:**

Name N/A

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

**DOC # 447286**

08/25/2009 10 07 AM

**Official Record**

Requested By  
LAW OFFICE OF RICK LANTON

Lyon County - NV

Mary C Milligan - Recorder

Page 1 of 3 Fee \$16 00

Recorded By CDL RPTT



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NOTICE OF LIS ABANDON

**Title of Document**

(Required Field)

**FILL IN ALL THAT APPLY**

The Undersigned Hereby Affirms That This Document Submitted For Recording Contains Personal Information As Required By Law\*

Specify Law\* \_\_\_\_\_

Signature \_\_\_\_\_

Specify Law\* \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

\*If there is no applicable State or Federal Law, Personal Information must be removed prior to recording

If this document is a re-record or correction, fill out below

Correcting Document# \_\_\_\_\_ Amending \_\_\_\_\_

Reason for re-record \_\_\_\_\_

(For Re-records, all pages from original document must be included, \$25 Non-conforming Fee Applies)

If legal description is in metes & bounds, indicate where it was obtained

\_\_\_\_\_ (Document Title), Book \_\_\_\_\_ Page \_\_\_\_\_ or

Document # \_\_\_\_\_ recorded \_\_\_\_\_ (date) in the

Lyon County Recorder's Office

**-OR-**

If prepared by a surveyor, provide name and address

\_\_\_\_\_  
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Personal Information\* means a natural person's first name or first initial and last name in combination with any one or more of the following data elements

- 1 Social security number
- 2 Driver's license number or identification card number
- 3 Account number, credit card number or debit card number in combination with any required security code, access code or password

This page added to provide additional information required by NRS 111 312 Sections 1-4 (\$1 00 Additional Recording Fee Applies)



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Case No. 0920215

Dept. No. 11

The undersigned hereby affirms that this Document does not contain a social security no

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Andrea Andersen

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

FRED MESI and ERIC MESI.

Plaintiffs

vs.

WASHINGTON MUTUAL F.A, a Federal Savings Bank; CALIFORNIA RECONVEYANCE COMPANY, a Foreign California Corporation, La SALLE BANK, N A as Trustee for Wa Mu MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-AR7 TRUST; WESTERN EXCHANGE SERVICES CORP, a Nevada Corporation, WESTERN TITLE COMPANY, INC. a Nevada Corporation; GENEVA MARTRAKUS, DANITA F. FALLEN, and MESHELLE BAGGERMAN, individually, MORTGAGE ELECTRONIC REGISTRATION SYSTEM, INC., a subsidiary of MERSCORP, INC , a Delaware corporation, [MERS], BANK OF AMERICA CORPORATION, N.A, and DOES 1-25 CORPORATIONS, DOES and ROES 1-25 Individuals, [Partnerships, or anyone claiming any interest to the property described in the action

Defendants.

NOTICE BY PLAINTIFF  
OF PENDENCY OF ACTION

NOTICE IS HEREBY GIVEN that an action has been commenced

TO QUIET TITLE in the above-entitled Court by the above-named Plaintiff against the above-named Defendants to Quiet the Title for the premises and real estate in the Complaint in said action, and hereinafter described, and to determine all and every claim,

Rick Lawton's Law Office



447286

08/25/2009  
003 of 3

1 estate or interest therein of said Defendants, adverse to said Plaintiffs, and the premises  
2 affected by this suit are situated in the County of Lyon, State of Nevada, and are more  
3 particularly described as follows:  
4

5 The action pertains to the following described property.

6  
7 1329 WINNIE'S LANE, FERNLEY, NEVADA 89408

8 All that real property situated in the County of Lyon, State of  
9 Nevada, described as follows

10 Lot 87, as shown on the Final Map of UPLAND RANCH  
11 ESTATES UNIT NO. 8, according to map thereof, filed in the  
12 office of the County Recorder of Lyon County, State of  
13 Nevada, on October 08, 2004, as document No 332868, and  
14 amended by Certificate of Amendment on December 23,  
15 2004, as Document No. 33009.

16 APN: 022-226-04

17 DATED: This 25 day of August, 2009

18 RICK LAWTON, ESQUIRE  
19 Attorney at Law  
20 5435 Reno Hwy.  
21 Fallon, Nevada 89406

22 By   
23 RICK LAWTON, Esquire

24 **CERTIFIED COPY**

25 The document to which this certificate is  
26 attached is a full, true and correct copy of the  
original on the date of record in my office

DATE August 25, 2009  
Notary Public and Clerk of  
the County of Lyon, State of  
Nevada, in and to the County.

By Andrea Anderson  
Deputy

RICK LAWTON 5 LAW OFFICE



**EXHIBIT B**

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

FRED MESI and ERIC MESI,  
  
Plaintiffs,

CASE NO: 3:09-cv-00582-JCM-VPC

vs.

**ORDER EXPUNGING/CANCELING  
NOTICE OF LIS PENDENS**

WASHINGTON MUTUAL F. A., a Federal  
Savings Bank; CALIFORNIA  
RECONVEYANCE COMPANY, a Foreign  
California Corporation; LaSALLE BANK, N. A.)  
as Trustee for Wa Mu MORTGAGE  
PASS- THROUGH CERTIFICATES SERIES )  
2006-AR7 TRUST; WESTERN EXCHANGE)  
SERVICES CORP, a Nevada Corporation, )  
WESTERN TITLE COMPANY, INC., a )  
Nevada Corporation; GENEVA MARTRAKUS, )  
DANITA F. FALLEN, and MESHELLE )  
BAGGERMAN, individually; MORTGAGE )  
ELECTRONIC REGISTRATION SYSTEM, )  
INC., a subsidiary of MERSCORP, INC., a )  
Delaware corporation, [MERS]; BANK OF )  
AMERICA CORPORATION, N.A.; and )  
DOES 1-25 CORPORATIONS, DOES and )  
ROES 1-25 Individuals, [Partnerships, or )  
anyone claiming any interest to the property )  
described in the action, )

Defendants.

The Court, having considered the Motion to Expunge/Cancel Notice of Lis Pendens, filed with the Court by California Reconveyance Company, and good cause appearing therefor,

**IT IS HEREBY ORDERED** that the motion is granted;

1           **IT IS FURTHER ORDERED** that the Notice of Lis Pendens recorded by Plaintiffs on  
2 August 25, 2009, in the Official Records of the Lyon County, Nevada Recorder, as Document No.  
3 447286 (a copy of which is attached hereto as **Exhibit 1**) is hereby expunged and fully discharged,  
4 and is of no further force and effect for any purposes; and,

5           **IT IS FURTHER ORDERED** that the real property located at 1329 Winnie's Lane,  
6 Fernley, Lyon County, Nevada 89408 (APN 022-226-04), which was the subject of this action, is  
7 fully exonerated from the referenced Notice of Lis Pendens.

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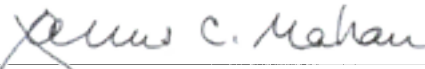
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Dated November 20, 2013.

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UNITED STATES DISTRICT JUDGE

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**EXHIBIT 1**

APN# 022-226-01

**Recording Requested by:**

Name LAW OFFICE OF RICK LAWTON

Address 5435 BEND AVE

City/State/Zip 177100R, NV 89406

**Mail Tax Statements to:**

Name N/A

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

**DOC # 447286**

08/25/2009 10 07 AM

**Official Record**

Requested By  
LAW OFFICE OF RICK LAWTON

Lyon County - NV

Mary C Milligan - Recorder

Page 1 of 3 Fee \$16.00

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NOTICE OF LIS ABANDON

**Title of Document**

(Required Field)

**FILL IN ALL THAT APPLY**

The Undersigned Hereby Affirms That This Document Submitted For Recording Contains Personal Information As Required By Law\*

Specify Law\* \_\_\_\_\_

Signature \_\_\_\_\_

Specify Law\* \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

\*If there is no applicable State or Federal Law, Personal Information must be removed prior to recording

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-OR-

If prepared by a surveyor, provide name and address

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Case No. 09-0275

Dept. No. III

The undersigned hereby affirms that this Document does not contain a social security no

Andrea Andersen

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

FRED MESI and ERIC MESI.

Plaintiffs

vs.

WASHINGTON MUTUAL F.A, a Federal Savings Bank; CALIFORNIA RECONVEYANCE COMPANY, a Foreign California Corporation, La SALLE BANK, N A as Trustee for Wa Mu MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-AR7 TRUST; WESTERN EXCHANGE SERVICES CORP, a Nevada Corporation, WESTERN TITLE COMPANY, INC. a Nevada Corporation; GENEVA MARTRAKUS, DANITA F. FALLEN, and MESHELLE BAGGERMAN, individually, MORTGAGE ELECTRONIC REGISTRATION SYSTEM, INC., a subsidiary of MERSCORP, INC, a Delaware corporation, [MERS], BANK OF AMERICA CORPORATION, N.A, and DOES 1-25 CORPORATIONS, DOES and ROES 1-25 Individuals, [Partnerships, or anyone claiming any interest to the property described in the action

Defendants.

NOTICE BY PLAINTIFF  
OF PENDENCY OF ACTION

NOTICE IS HEREBY GIVEN that an action has been commenced TO QUIET TITLE in the above-entitled Court by the above-named Plaintiff against the above-named Defendants to Quiet the Title for the premises and real estate in the Complaint in said action, and hereinafter described, and to determine all and every claim,

Rick Lawton's Law Office



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08/25/2009  
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RICK LAWTON'S LAW OFFICE

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estate or interest therein of said Defendants, adverse to said Plaintiffs, and the premises affected by this suit are situated in the County of Lyon, State of Nevada, and are more particularly described as follows:

The action pertains to the following described property.

1329 WINNIE'S LANE, FERNLEY, NEVADA 89408

All that real property situated in the County of Lyon, State of Nevada, described as follows

Lot 87, as shown on the Final Map of UPLAND RANCH ESTATES UNIT NO. 8, according to map thereof, filed in the office of the County Recorder of Lyon County, State of Nevada, on October 08, 2004, as document No 332868, and amended by Certificate of Amendment on December 23, 2004, as Document No. 33009.

APN: 022-226-04

DATED: This 25 day of August, 2009

RICK LAWTON, ESQUIRE  
Attorney at Law  
5435 Reno Hwy.  
Fallon, Nevada 89406

By   
RICK LAWTON, Esquire

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office

DATE August 25, 2009

*Andrea Andersen*  
Notary Public, State of Nevada, in and for Lyon County.

By *Andrea Andersen*  
Deputy