

1 GAYLE A. KERN, ESQ.
Nevada Bar No. 1620
2 KAREN M. AYARBE, ESQ.
Nevada Bar No. 3358
3 KERN & ASSOCIATES, LTD.
4 5421 Kietzke Lane, Ste. 200
Reno, Nevada 89511
5 Tel: (775) 324-5930
6 Fax: (775) 324-6173
Email: karenayarbe@kernltd.com
7 *Attorneys for Springland Village Homeowners Association*
(as to Interpleader Only)

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 CHAMPERY RENTAL REO, LLC,

Case No.: 3:17-cv-00162-MMD-WGC

11 Plaintiff,

12 v.

13 UNKNOWN HEIRS OF RAE NOLA
14 EDWARDS; FEDERAL NATIONAL
15 MORTGAGE ASSOCIATION; QUALITY
16 LOAN SERVICE CORPORATION; KERN &
ASSOCIATES, LTD.; SPRINGLAND
17 VILLAGE HOMEOWNERS ASSOCIATION;
All other persons unknown claiming any right,
18 title, estate, lien or interest in the real property
described in the Complaint adverse to
19 Plaintiff's ownership, or any cloud upon
Plaintiff's title thereto; DOES I through V; and
20 ROE Corporations I through V,

21 Defendants.

22 _____/
23 FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

24 Counterclaimant,

25 v.

26 CHAMPERY RENTAL REO LLC,

27 Counter-Defendant.
28 _____/

STIPULATION AND ORDER FOR
DISBURSEMENT OF SURPLUS
FUNDS AND DISMISSAL OF
INTERPLEADER

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SPRINGLAND VILLAGE HOMEOWNERS
ASSOCIATION,

Counterclaimant,

v.

CHAMPERY RENTAL REO, LLC,

Counter-Defendant.

SPRINGLAND VILLAGE HOMEOWNERS
ASSOCIATION,

Cross-Claimant,

v.

UNKNOWN HEIRS OF RAE NOLA
EDWARDS; FEDERAL NATIONAL
MORTGAGE ASSOCIATION; QUALITY
LOAN SERVICE CORPORATION; ALL
OTHER PERSONS UNKNOWN
CLAIMING ANY RIGHT, TITLE, ESTATE,
LIEN OR INTEREST IN THE REAL
PROPERTY DESCRIBED IN THE
COMPLAINT ADVERSE TO PLAINTIFF'S
OWNERSHIP, OR ANY CLOUD UPON
PLAINTIFF'S TITLE THERETO; GMAC
MORTGAGE, LLC; MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.; OCWEN LOAN
SERVICING, LLC; HOLLYVALE RENTAL
HOLDINGS, LLC; CHAMPERY REAL
ESTATE 2015, LLC; HOLLYVALE
RENTAL HOLDINGS 2015, LLC; ALL
THOSE CLAIMING AN INTEREST IN
2614 SUNNY SLOPE DRIVE #3, SPARKS,
NV 89434; DOES I through V; and ROE
Corporations I through V,

Cross-Defendants.

**STIPULATION AND ORDER FOR DISBURSEMENT OF
SURPLUS FUNDS AND DISMISSAL OF INTERPLEADER**

1 Cross-Claimant/Counter-Claimant Springland Village Homeowners Association (the
2 "Association"), by and through its counsel, Kern & Associates Ltd., Plaintiff/Counter-Defendant
3 Champery Rental REO LLC ("Champery"), by and through its counsel Hutchinson & Steffen,
4 and Defendant/Cross-Defendant Federal National Mortgage Association ("Fannie Mae"), by and
5 through its counsel Aldridge Pite, hereby state, agree, and stipulate as follows:
6

7 1. This action arises from the Association's NRS Chapter 116 assessment lien
8 foreclosure sale of certain real property identified below, and the legal dispute as between
9 Champery and Fannie Mae concerning the legal effect of the Association's foreclosure on Fannie
10 Mae's deed of trust.
11

12 2. The Association filed its Counterclaim and Cross-Claim in Interpleader on March
13 9, 2018 ("Interpleader Action" DE 81 and 82). The Association's Interpleader Action contains a
14 single claim to distribute surplus funds, less fees and costs incurred by the Association in
15 connection with the Interpleader Action, remaining from the August 19, 2016 foreclosure sale of
16 that certain real property located in Sparks, Nevada, commonly known as 2614 Sunny Slope
17 Drive, #3, Sparks NV, 89434, and more particularly described as:
18

19 **PARCEL 1:**

20 UNIT 3 IN BUILDING 12 OF SPRINGLAND VILLAGE UNIT
21 NO. 1B (A CONDOMINIUM SUBDIVISION), AS SHOWN ON
22 THE MAP THEREOF, FILED IN THE OFFICE OF THE
23 COUNTY RECORDER OF WASHOE COUNTY, NEVADA, ON
24 MARCH 23, 1982, FILE NO. 786846, TRACT MAP NO. 2038.

25 **PARCEL 2:**

26 AN UNDIVIDED 1/86TH INTEREST IN THE COMMON AREA
27 OF SPRINGLAND VILLAGE UNIT NO. 1B (A
28 CONDOMINIUM SUBDIVISION), AS SHOWN ON THE MAP
 THEREOF, FILED IN THE OFFICE OF THE COUNTY
 RECORDER OF WASHOE COUNTY, NEVADA, ON MARCH
 23, 1982.

1 (“Subject Property”) and is also identified as APN 030-328-11.

2 3. The Counter-Defendant and Cross-Defendants named herein are all parties who
3 may have an interest in the Subject Property and the surplus funds remaining after the
4 Association’s foreclosure of the Property, as provided for in NRS 116.31164(7)(b).¹ The statute
5 sets forth the distribution priority of funds following an association’s assessment lien foreclosure
6 sale conducted pursuant to NRS 116.3116 *et seq.*

7 4. The Association foreclosed its lien for delinquent assessments in accord with the
8 provisions set forth in NRS 116.3116 *et seq* and sold the Subject Property to the highest bidder
9 Cross-Defendant Hollyvale Rental Holdings, LLC (“HRH”), predecessor in interest to Champery,
10 for the sum of \$80,000.00. After payment of the unpaid assessments and permitted foreclosure
11 fees, surplus funds remain in the sum of \$69,200.00 (“Surplus Funds”) and which are held in trust
12 by the Association’s undersigned counsel, Kern & Associates, Ltd.

13 5. The Association, through its counsel, has undertaken efforts to locate and serve
14 the Counter-Defendant and numerous Cross-Defendants named herein who may have an interest
15 in the Surplus Funds from the above-referenced foreclosure sale.

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20 ¹ NRS 116.31164(7) provides as follows:

- 21 7. After the sale, the person conducting the sale shall:
22 (a) Comply with the provisions of subsection 2 of NRS 116.31166; and
23 (b) Apply the proceeds of the sale for the following purposes in the
24 following order:
25 (1) The reasonable expenses of sale;
26 (2) The reasonable expenses of securing possession before sale, holding,
27 maintaining, and preparing the unit for sale, including payment of
28 taxes and other governmental charges, premiums on hazard and
liability insurance, and, to the extent provided for by the declaration,
reasonable attorney’s fees and other legal expenses incurred by the
association;
(3) Satisfaction of the association’s lien;
(4) Satisfaction in the order of priority of any subordinate claim of record;
and
(5) Remittance of any excess to the unit’s owner.

1 6. Counter-Defendant Champery was served with a copy of the Interpleader Action
2 on or about March 9, 2018 and filed its Answer on April 9, 2018 (DE 110.)

3 7. Service of the Interpleader Action and Summonses were accepted by counsel for
4 Cross-Defendants HRH, Champery Real Estate 2015 ("Champery 2015"), and Hollyvale Rental
5 Holdings 2015 ("HRH 2015") on or about March 19, 2018, and Answers and Disclaimers of
6 Interest were filed on April 9 and April 10, 2018, respectively. (DE 111 and 113.)

7 8. Service of the Interpleader Action on Cross-Defendant Fannie Mae (as the holder
8 of the beneficial interest in the deed of trust encumbering the Subject Property) was on or about
9 March 9, 2018 (DE 82), and Fannie Mae filed its Answer and Claim to Surplus Funds on March
10 26, 2018 (DE 104).

11 9. Service of the Interpleader Action was effected on Cross-Defendants Mortgage
12 Electronic Systems, Inc. ("MERS"), and Ocwen Loan Servicing, LLC ("Ocwen") on or about
13 March 15 and 16, 2018 (DE 98 and 103). Ultimately, through counsel, Disclaimers of Interests
14 and Stipulations for Dismissal were filed for MERS and Ocwen on May 22, 2018, as well as for
15 Cross-Defendant GMAC Mortgage LLC ("GMAC") (DE 131 and 132.)

16 10. Cross-Defendant Quality Loan Service was served on or about March 9, 2018 (DE
17 82) and filed its Declaration of Non-Monetary Status and Disclaimer on or about April 10, 2018
18 (DE 114).

19 11. The Association, through its counsel, obtained approval from the Court on March
20 15, 2018 (DE 96) to complete service by publication on Cross-Defendants (1) ALL THOSE
21 CLAIMING AN INTEREST IN 2614 SUNNY SLOPE DRIVE #3, SPARKS, NV 89434; (2) the
22 UNKNOWN HEIRS OF RAE NOLA EDWARDS; and (3) ALL OTHER PERSONS
23 UNKNOWN CLAIMING ANY RIGHT, TITLE, ESTATE, LIEN OR INTEREST IN THE
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1 REAL PROPERTY ADVERSE TO PLAINTIFF'S OWNERSHIP, OR ANY CLOUD UPON
2 TITLE THERETO ("Unknown Cross-Defendants") The Association completed service by
3 publication on the Unknown Cross-Defendants and filed proof of publication with the Court (DE
4 120, 121, and 122). No answer or other appearances were made by or on behalf of the Unknown
5 Cross-Defendants, and defaults were entered against all Unknown Cross-Defendants on May 22,
6 2018 (DE 130.)
7

8 12. All Counter-Defendants and Cross-Defendants to the Interpleader Action have
9 been served, and all Counter-Defendants and Cross-Defendants with the exception of Fannie Mae
10 and Champery have either been defaulted or disclaimed interest in the Surplus Funds.
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12 13. The Association does not claim an interest to the Surplus Funds and is presently
13 ready, willing and able to disburse the Surplus Funds, less its fees and costs, in accord with
14 Nevada law.
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16 14. Defendant/Cross-Defendant Fannie Mae is the only party which has made a claim
17 to the Surplus Funds (DE 104), while Plaintiff/Counter-Defendant Champery has asserted that
18 the deed of trust beneficiary, i.e. Fannie Mae, should receive the Surplus Funds (DE 110, p. 3, ll.
19 1-4).
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21 15. Since the filing of the Interpleader Action, Champery and Fannie Mae have
22 reached a settlement of the claims asserted against each other in this matter, the terms of which
23 settlement provide in part for payment of the Surplus Funds to Fannie Mae.
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25 16. An Order from this Court authorizing the Association to disburse the Surplus
26 Funds remaining after its assessment lien foreclosure sale in accord with Nevada law is necessary
27 and appropriate.
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1 Based upon the foregoing,

2 **IT IS HEREBY STIPULATED AND AGREED** that all parties have been duly served
3 and given time to assert a claim against the Surplus Funds remaining after the Association's
4 assessment lien foreclosure sale of the Subject Property;

5 **IT IS FURTHER HEREBY STIPULATED AND AGREED** that through July 9, 2018,
6 the Association has incurred attorney's fees in amount of \$7,996.00 (27.1 hours at \$295.00 an
7 hour) and costs in the amount of \$2,609.91 (including \$2,289.00 for publication of summonses
8 for the Unknown Cross-Defendants), for a total amount of fees and costs of \$10,686.91;

9 **IT IS FURTHER HEREBY STIPULATED AND AGREED** that the fees and costs
10 incurred by the Association are reasonable and necessary;

11 **IT IS FURTHER HEREBY STIPULATED AND AGREED** that the Association's
12 counsel Kern & Associates, Ltd., shall be paid from its trust account the amount of \$10,686.91 as
13 its attorney's fees and costs incurred on behalf of the Association in the interpleader action;

14 **IT IS FURTHER HEREBY STIPULATED AND AGREED** that the remaining Surplus
15 Funds in the amount of \$58,513.09 shall be disbursed to Defendant/Cross-Defendant Fannie Mae
16 from Kern & Associates, Ltd.'s trust account in accord with the settlement reached by and
17 between Plaintiff/Counter-Defendant Champery and Fannie Mae.

18 **IT IS FURTHER HEREBY STIPULATED AND AGREED** that no parties to this action
19 will have any future claims to the Surplus Funds remaining from the Association's assessment
20 lien foreclosure sale of the Subject Property; and

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1 **IT IS FURTHER HEREBY STIPULATED AND AGREED** that the Court's Order
2 approving this Stipulation shall constitute a dismissal of the Interpleader Action with prejudice.
3 However, the claims and counterclaims, between Champery and Fannie Mae shall remain pending
4 and will be addressed and resolved through a separate stipulation and order.
5

6 DATED this 16th day of July, 2018.

 DATED this 18th day of July, 2018.

7 ***KERN & ASSOCIATES, LTD.***

HUTCHINSON & STEFFEN, PLLC

8 */s/ Karen M. Ayarbe, Esq.*

/s/ Matthew K. Schriever, Esq.

9 KAREN M. AYARBE, ESQ.

 MATTHEW K. SCHRIEVER, ESQ.

10 Nevada Bar No. 3358

 Nevada Bar No. 10745

11 5421 Kietzke Lane, Ste. 200

 10080 West Alta Drive, Ste. 200

12 Reno, NV 89511

 Las Vegas, NV 89145

13 Tel: (775) 324-5930

 Tel: (702) 385-2500

14 Email: karenayarbe@kernltd.com

 Email: mschriever@hutchlegal.com

15 Attorneys for Springland Village

 Attorneys for Champery Rental REO, LLC

16 Homeowners Association

17 DATED this 18th day of July, 2018.

18 ***ALDRIDGE PITE, LLP***

19 */s/ Jory Garabedian, Esq.*

20 JORY GARABEDIAN, ESQ.

21 Nevada Bar No. 10352

22 520 South 4th St., Ste. 360

23 Las Vegas, NV 89101

24 Tel: (702) 991-4636

25 Email: jgarabedian@aldridgepite.com

26 Attorneys for Federal National Mortgage

27 Association

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1 **CERTIFICATE OF SERVICE**

2 Pursuant to the Fed. R. Civ. Proc. 5(b) and the United States District Court CM/ECF
3 Electronic Filing Procedure IV(B), a true and correct copy of the foregoing **STIPULATION AND**
4 **ORDER FOR DISBURSEMENT OF SURPLUS FUNDS AND DISMISSAL OF**
5 **INTERPLEADER** was transmitted electronically through the Court's e-filing electronic system
6 to the attorney(s) associated with this case.
7

8 **THOMAS BECKOM** tbeckom@mccarthyholthus.com
9 fdcnv@mccarthyholthus.com

10 **JORY C. GARABEDIAN** jgarabedian@aldridgepite.com
11 nvfilings@aldridgepite.com

12 **LAUREL I. HANDLEY** lhandley@aldridgepite.com
13 nvfilings@aldridgepite.com

14 **ELIZABETH B. LOWELL** elowell@pengillylawfirm.com
15 twhite@pengillylawfirm.com
16 oschulze@pengillylawfirm.com

17 **CHRISTINA MILLER** cmiller@wrightlegal.net
18 fharris@wrightlegal.net
19 nvefile@wrightlegal.net

20 **SANDRA ROBERTSON** srobertson@hutchlegal.com
21 bbenitez@hutchlegal.com

22 **ANTHONY R SASSI** asassi@aldridgepite.com
23 nvfilings@aldridgepite.com

24 **MATTHEW K. SCHRIEVER** mschriever@hutchlegal.com
25 bbenitez@hutchlegal.com

26 **KRISTIN A SCHULER-HINTZ** FDCNV@mccarthyholthus.com

27 **JOHN T STEFFEN** jsteffen@hutchlegal.com

28 DATED this 19th day of July 2018.

/s/ Christine A. Lamia
An Employee of Kern & Associates, Ltd.