<u>1</u>	NEO Michael P. Proeks Esg	Alun D. Column
2	Michael R. Brooks, Esq. Nevada Bar No. 7287	CLERK OF THE COURT
3	BROOKS HUBLEY LLP  1645 Village Center Circle, Suite 200  Las Vices NIV 20124	
4	Las Vegas, NV 89134 Tel: (702) 851-1191	
5	Fax: (702) 851-1198 E-mail: mbrooks@brookshubley.com	
6	Attorneys for Defendant Federal National Mo	ortgage Association
7		
8	DISTRIC	T COURT
9	CLARK COUNTY, NEVADA	
10	SATICOY BAY LLC SERIES 9641 CHRISTINE VIEW,	Case No.: A-13-690924-C Dept. No.: VI
11	Plaintiff,	NOTICE OF ENTRY OF ORDER
12	v.	DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND
13	FEDERAL NATIONAL MORTGAGE ASSOCIATION; THE COOPER CASTLE	GRANTING FEDERAL NATIONAL MORTGAGE ASSOCIATION'S
14	LAW FIRM, LLP; DON MORENO AND RIETA MORENO,	COUNTERMOTION FOR SUMMARY JUDGMENT
15	Defendants.	
16		
17	PLEASE TAKE NOTICE that an Ord	der Denying Plaintiff's Motion for Summary
18	Judgment and Granting Federal National	Mortgage Association's Countermotion for
19	Summary Judgment was entered in the a	above-captioned matter on the 8 <sup>th</sup> day of
20	December, 2015.	
21	/././	
22	/././	
23	/././	
24	Pa	ge 1
<u> </u>		

## BROOKS HUBLEY, LLP 1645 VILLAGE CENTER CIRCLE, SUITE 200, LAS VEGAS, NV 89134 TELEPHONE: (702) 851-1191 FAX: (702) 851-1198

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1	A true and correct copy of said Order is attached hereto.
2	DATED this / day of December, 2015.
3	BROOKS HUBLEY, LLP
4	mill
5	MICHAEL R. BROOKS, ESQ.
6	Attorneys for Defendant Federal National Mortgage Association
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## 1645 VILLAGE CENTER CIRCLE, SUITE 200, LAS VEGAS, NV 89134 TELEPHONE: (702) 851-1191 FAX: (702) 851-1198

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## CERTIFCATE OF SERVICE

I, the undersigned, hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is that of Brooks Hubley, LLP, 1645 Village Center Circle, Suite 200, Las Vegas, Nevada 89134.

HEREBY CERTIFY that, pursuant to Eighth Judicial District Court Administrative Order 14-2 and EDCR 8.05(i), I electronically served, via the Eighth Judicial District Court electronic filing system and in place of service by mail, the NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION FOR **SUMMARY JUDGMENT AND GRANTING FEDERAL NATIONAL MORTGAGE COUNTERMOTION SUMMARY ASSOCIATION'S FOR** JUDGMENT on the following parties and those parties listed on the Court's Master List in said action:

<b>Law Offices of Michae</b>	I F. Bohn, Esq.				
	<u>ontact</u>		<u>Email</u>		
	serve Contact		office@bo	hnlawfirm.com	
	<u>lichael F Bohn E</u>	<u>sq</u> _	<u>mbohn@b</u>	ohnlawfirm.com	

I certify under penalty of perjury that the foregoing is true and correct and that this Certificate of Service was executed by me on the 10th day of December, 2015, at Las Vegas, Nevada.

An Employee of BROOKS HUBLEY, LLP

1	ORDR	Ston D. Comm
2	Michael R. Brooks, Esq. Nevada Bar No. 7287	CLERK OF THE COURT
_	BROOKS HUBLEY LLP	
3	1645 Village Center Circle, Suite 200 Las Vegas, NV 89134	
4	Tel: (702) 851-1191 Fax: (702) 851-1198	
5	E-mail: mbrooks@brookshubley.com  Attorneys for Defendant Federal National Mo	vrtagga Asposiation
6	Theories for Describent Pederal Mallonal Mo	nigage Association
7	DISTRIC	T COURT
8	CLARK COUNTY, NEVADA	
9	SATICOY BAY LLC SERIES 9641 CHRISTINE VIEW,	Case No.: A-13-690924-C Dept. No.: VI
10	Plaintiff,	ORDER DENYING PLAINTIFF'S
11	V.	MOTION FOR SUMMARY
12	FEDERAL NATIONAL MORTGAGE ASSOCIATION; THE COOPER CASTLE LAW FIRM, LLP; DON MORENO AND	JUDGMENT AND GRANTING FEDERAL NATIONAL MORTGAGE ASSOCIATION'S
13	RIETA MORENO,	COUNTERMOTION FOR SUMMARY JUDGMENT
14	Defendants.	
15		<b>,</b>
16	This matter came for hearing on Nove	ember 17, 2015, at 8:30 a.m., in Department
17	VI of the Eighth Judicial District Court, in	n and for Clark County, Nevada, with the
18	Honorable Elissa F. Cadish presiding, on Plai	ntiff, Saticoy Bay LLC Series 9641 Christine
19	View's ("Plaintiff"), Motion for Summary	Judgment and Defendant, Federal National
20	Mortgage Association's ("Fannie Mae"), Co	ounter-Motion for Summary Judgment; with
21	Michael F. Bohn, Esq. appearing on behalf	of Plaintiff; and Michael R. Brooks, Esq., of
22	Brooks Hubley, LLP, appearing on behalf of	Fannie Mae.
23	☐ Voluntary Dismissal☐ Involuntary Dismissal☐ Stipulated Dismissal	Stipulated Judgment
24	Motion to Dismiss by Defets	Default Judgment  ge   U Judgment of Arbitration
25		

This Court, having considered all pleadings and papers on file herein and arguments of counsel, and for good cause shown, hereby orders the following:

## **FINDINGS OF FACTS**

- 1. A Deed of Trust listing Don and Rieta Moreno as the borrowers, Countrywide Home Loans, Inc. ("Countrywide") as the original lender, and Mortgage Electronic Registration Systems, Inc ("MERS") as beneficiary and nominee for Lender and Lender's successors and assigns, was recorded on November 2, 2004. The Deed of Trust granted Countrywide and its successors and assigns a security interest in real property known as 9641 Christine View Court, Las Vegas 89129 (the "Property") to secure the repayment of a loan in the original amount of \$174,950.00 (the "Loan").
- 2. On September 6, 2008, pursuant to Housing & Economic Recovery Act of 2008 ("HERA"), the Director of the Federal Housing Finance Agency ("FHFA" or "Conservator") placed Fannie Mae and Freddie Mac into conservatorship.
- 3. On March 17, 2010, Nevada Association Services ("NAS"), on behalf of the HOA, recorded a lien for delinquent assessments against the Property. Per the notice of delinquent assessments, the amount owing as of the date of preparation of the lien was \$1,050.00.
- 4. On August 16, 2010, NAS, on behalf of the HOA, recorded a notice of default and election to sell against the Property.
- 5. On May 30, 2012, MERS assigned the Deed of Trust to Bank of America, N.A., Successor by Merger to BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing, LP. This document was recorded on June 1, 2012, in the Official Records for Clark Country as instrument number 20120601-0002535.

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-	6. On October 6, 2012, Bank of America assigned the Deed of Trust to Fannie
2	Mae. This document was recorded on October 19, 2012, in the Official Records for Clark
3	County as instrument number 20121019-000325.
4	7. NAS, on behalf of the HOA, recorded a Second Notice of Trustee's Sale
5	against the Property on August 15, 2013. Per the Notice of Trustee's Sale, the amount
6	owed as of the time of initial publication of the Notice of Sale, totaled \$2,712.17.
7	8. On September 26, 2013, a Trustee's Deed Upon Sale was recorded against
8	the Property. The Trustee's Deed Upon Sale states that the Property was sold on
9	September 6, 2013, to Saticoy Bay for a purchase price of \$26,800.00.
10	9. At no time did the Conservator consent to the HOA's foreclosure sale
11	extinguishing or foreclosing Fannie Mae's interest in Property.
12	CONCLUSIONS OF LAW
13	THE COURT HEREBY FINDS AS FINDS AS FOLLOWS AS A MATTER OF
	THE COURT HEREBY FINDS AS FINDS AS FOLLOWS AS A MATTER OF LAW:
13	
13 14	LAW:
13 14 15	LAW:  1. 12 U.S.C. § 4617(j)(3) preempts Nevada Revised Statute § 116.3116 to the
13 14 15 16	LAW:  1. 12 U.S.C. § 4617(j)(3) preempts Nevada Revised Statute § 116.3116 to the extent that a homeowner association's foreclosure of its super-priority lien cannot
13 14 15 16	LAW:  1. 12 U.S.C. § 4617(j)(3) preempts Nevada Revised Statute § 116.3116 to the extent that a homeowner association's foreclosure of its super-priority lien cannot extinguish a property interest of Fannie Mae while it is under FHFA's conservatorship.
13 14 15 16 17 18	LAW:  1. 12 U.S.C. § 4617(j)(3) preempts Nevada Revised Statute § 116.3116 to the extent that a homeowner association's foreclosure of its super-priority lien cannot extinguish a property interest of Fannie Mae while it is under FHFA's conservatorship.  2. Fannie Mae's interest in Property secured by the Deed of Trust was a
13 14 15 16 17 18	LAW:  1. 12 U.S.C. § 4617(j)(3) preempts Nevada Revised Statute § 116.3116 to the extent that a homeowner association's foreclosure of its super-priority lien cannot extinguish a property interest of Fannie Mae while it is under FHFA's conservatorship.  2. Fannie Mae's interest in Property secured by the Deed of Trust was a property interest protected by 12 U.S.C. § 4617(j)(3).  3. The HOA's foreclosure sale of its super-priority interest in this case did not
13 14 15 16 17 18 19 20	LAW:  1. 12 U.S.C. § 4617(j)(3) preempts Nevada Revised Statute § 116.3116 to the extent that a homeowner association's foreclosure of its super-priority lien cannot extinguish a property interest of Fannie Mae while it is under FHFA's conservatorship.  2. Fannie Mae's interest in Property secured by the Deed of Trust was a property interest protected by 12 U.S.C. § 4617(j)(3).
13 14 15 16 17 18 19 20 21	LAW:  1. 12 U.S.C. § 4617(j)(3) preempts Nevada Revised Statute § 116.3116 to the extent that a homeowner association's foreclosure of its super-priority lien cannot extinguish a property interest of Fannie Mae while it is under FHFA's conservatorship.  2. Fannie Mae's interest in Property secured by the Deed of Trust was a property interest protected by 12 U.S.C. § 4617(j)(3).  3. The HOA's foreclosure sale of its super-priority interest in this case did not extinguish Fannie Mae's interest in the Property secured by the Deed of Trust nor convey

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1	IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Fannie
2	Mae's Counterclaims for Quiet Title and Declaratory Relief are each resolved in favor of
3	Fannie Mae, and that Fannie Mae's Counter-Motion for Summary Judgment, is
4	GRANTED.
5	IT IS FURTHER ORDERED that based on the above findings and order,
6	Plaintiff's claims for Quiet Title and Declaratory Relief are each resolved in favor of
7	Fannie Mae, and that Plaintiff's Motion for Summary Judgment is <b>DENIED</b> .
8	IT IS SO ORDERED.
9	DATED this day of, 2015.
10	J.DC
11	DISTRICT COURT JUDGE LOW
12	Respectfully submitted by:
13	BROOKS HUBLEY, LLP
14	mish
15	MICHAEL R. BROOKS, ESQ.  Attorneys for Defendant Federal
16	National Mortgage Association
17	
18	Approved as to Form and Content:
19	Muchael Bal
20	MICHAEL F. BOHN, ESQ.  Attorney for Plaintiff Saticoy Bay LLC
21	Series 9641 Christine View
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