

DOUGLAS COUNTY, NV

2024-1007977

Rec:\$40.00

\$40.00 Pgs=30

05/15/2024 01:52 PM

FIRST CENTENNIAL - RENO (MAIN OFFICE)

SHAWNYNE GARREN, RECORDER

APN No.: 1320-04-001-010

Escrow No.: 24040735-KH

Recording Requested By:
First Centennial Title Company of Nevada
1450 Ridgeview Dr, Ste 100
Reno, NV 89519

When Recorded Return to:
First Centennial Title Company of Nevada
1450 Ridgeview Dr, Ste 100
Reno, NV 89519

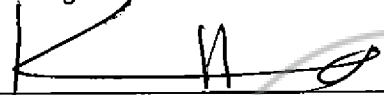
SPACE ABOVE FOR RECORDERS USE

**RELEASE OF JUDGMENT LIENS BY AFFIDAVIT OF JUDGMENT CREDITOR
UNDER AMENDED ORDER AWARDING INTERVENORS' COSTS**

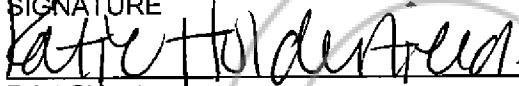
(Title of Document)

Please complete Affirmation Statement below:

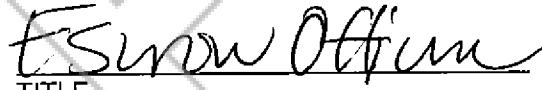
I, the undersigned, hereby affirm that the attached document, including any exhibits, hereby submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)



SIGNATURE



Print Signature



TITLE

This page added to provide additional information required by NRS 111.312 Sections 1-2 and NRS 239B.030 Section 4.

This cover page must be typed or printed in black ink.

SPACE BELOW FOR RECORDER

1 Case No. 18-CV-0272

RECEIVED

FILED

2 Dept. No. II

APR 08 2024

2024 APR -8 PM 12:55

3
4 APN: 1318-09-810-019

Douglas County
District Court

DOBBIE R. WILLIAMS
CLERK

BY A WEIDNER DEPUTY

5
6
7 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF DOUGLAS

9 RONALD W. VOGEL and CLAUDETTE D.
10 VOGEL, Trustees of the Vogel
11 Family Trust under Agreement
12 Dated October 25, 2016,

13 Plaintiffs,

14 vs.

15 THE MARLA BAY PROTECTIVE
16 ASSOCIATION, INC., and DOES I-X,

17 Defendants.

RELEASE OF JUDGMENT LIENS
BY AFFIDAVIT OF JUDGMENT
CREDITOR UNDER AMENDED
ORDER AWARDING
INTERVENORS' COSTS

18 And related matters.

19 STATE OF NEVADA)
20)
21 COUNTY OF WASHOE)

22 1. The names and last known address of the Former
23 Judgment Debtors are:

24 Ronald W. Vogel, Trustee
25 Claudette D. Vogel, Trustee
26 The Vogel Family Trust under
27 Agreement dated October 25, 1996,
28 620 Lakeshore Boulevard
Post Office Box 1635
Zephyr Cove, Nevada 89448

1 2. The names and last known address of the Releasing
2 Judgment Creditors are:

3 610 Lakeshore LLC, a Nevada
4 limited liability company, et al.
5 c/o Thomas J. Hall, Esq.
6 305 S. Arlington Avenue
7 Post Office Box 3948
8 Reno, Nevada 89505

9 See a full list of all Intervenor as Judgment Creditors
10 attached hereto as Exhibit A.

11 3. The Judgment issued out of an action instituted in
12 the Ninth Judicial District Court of the State of Nevada in
13 and for the County of Douglas, for the amount herein stated
14 and any other amounts due, recorded July 1, 2020, as Document
15 Nos. 2020-948525 and 2020-948528 of Official Records.

16 Amount: \$10,046.22

17 Case No.: 2018-CV-00272

18 Debtors: Ronald W. Vogel and Claudette D. Vogel, Trustees of
19 the Vogel Family Trust under Agreement Dated October 25, 2016

20 Creditors: Intervenor.

21 4. The Judgment was reviewed on December 17, 2021, by
22 the Supreme Court of Nevada in the appeal of the case No.
23 81123, Claudette D. Vogel, Trustee of the Vogel Family Trust
24 Under Agreement Dated October 25, 2016, vs. Marla Bay
25 Protective Association; 610 Lakeshore LLC, A Nevada Limited
26 Liability Company, et al. Respondents. A certified copy is
27 attached hereto as Exhibit B.

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5. On January 25, 2022, a Remittitur was issued out of the Supreme Court of Nevada.

6. As of January 25, 2022, the total debt amount of \$10,712.78 has been vacated, released, and cancelled.

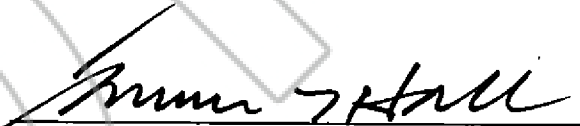
7. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct, based upon personal knowledge.

8. The undersigned does hereby affirm that this Memorandum filed herein does not contain the social security number of any person.

9. Further, your Affiant sayeth naught.

DATED this 8th day of April, 2024.

LAW OFFICES OF THOMAS J. HALL



Thomas J. Hall, Esq.
Nevada State Bar Number 675
305 South Arlington Avenue
Post Office Box 3948
Reno, Nevada 89505
hallnevadalaw@gmail.com

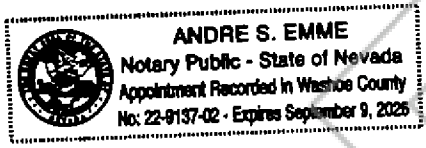
Attorney for Intervenors and
Judgment Creditors

1 STATE OF NEVADA)
) s.s.
2 COUNTY OF WASHOE)

3 Subscribed and sworn to before me on this 8th day of April,
4 2024, by Thomas J. Hall, Esq.

5 WITNESS my hand and official seal.

6 *Andre S Emme*
7 _____
8 NOTARY PUBLIC



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LIST OF EXHIBITS

EXHIBIT A: Current List of Intervenors

EXHIBIT B: Nevada Supreme Court Order Reversing in Part,
Vacating in Part, and Remanding, dated
December 17, 2021.

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CERTIFICATE OF SERVICE BY MAIL

I certify that I am an employee of Thomas J. Hall, Esq., and that on this date, pursuant to NRCPC 5 (b), I placed in the U.S. Mail, a true copy of the above-referenced document addressed to:

James R. Hales, Esq.
883 Mahogany Drive
Minden, Nevada 89423
Attorney for Plaintiff

Perry J. Woodward, Esq.
Hopkins & Carley
70 S. First Street
San Jose, California 95113
Attorneys for Plaintiff

Catherine DiCamillo, Esq.
Feldman McLaughlin Theil LLP
Post Office Box 1309
Zephyr Cove, Nevada 89448
Attorneys for Defendant

Nathan Holland, Esq.
Senior Deputy Attorney General
Government & Natural Resources
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701
Attorney for Defendant State of Nevada

Richard J. McGuffin, Esq.
Alling & Jillson
Post Office Box 3390
Lake Tahoe, Nevada 89449-3390
*Attorney for Defendant
622 Lakeshore, LLC*

Douglas V. Ritchie, Esq.
Chief Civil Deputy District
Attorney
1038 Buckeye Road
Post Office Box 218
Minden, Nevada 89423
*Attorney for Defendant Douglas
County*

Avece M. Higbee, Esq.
W. Reese Levins, Esq.
Marquis Auerbach
10001 Park Run Drive
Las Vegas, Nevada 89145
*Attorney for Defendant
T&A Resorts, LLC*

Darlene Heidi Romano
Archdeacon
13910 North Seifert Estates
Drive
Tucson, Arizona 85766
Pro Per Defendant

The Gilmore Group
3715 Lakeside Drive
Reno, Nevada 89509
*Attorneys for Bear Mountain
Investors*

DATED 8th day of April, 2024.

Andre S Emme

Exhibit A

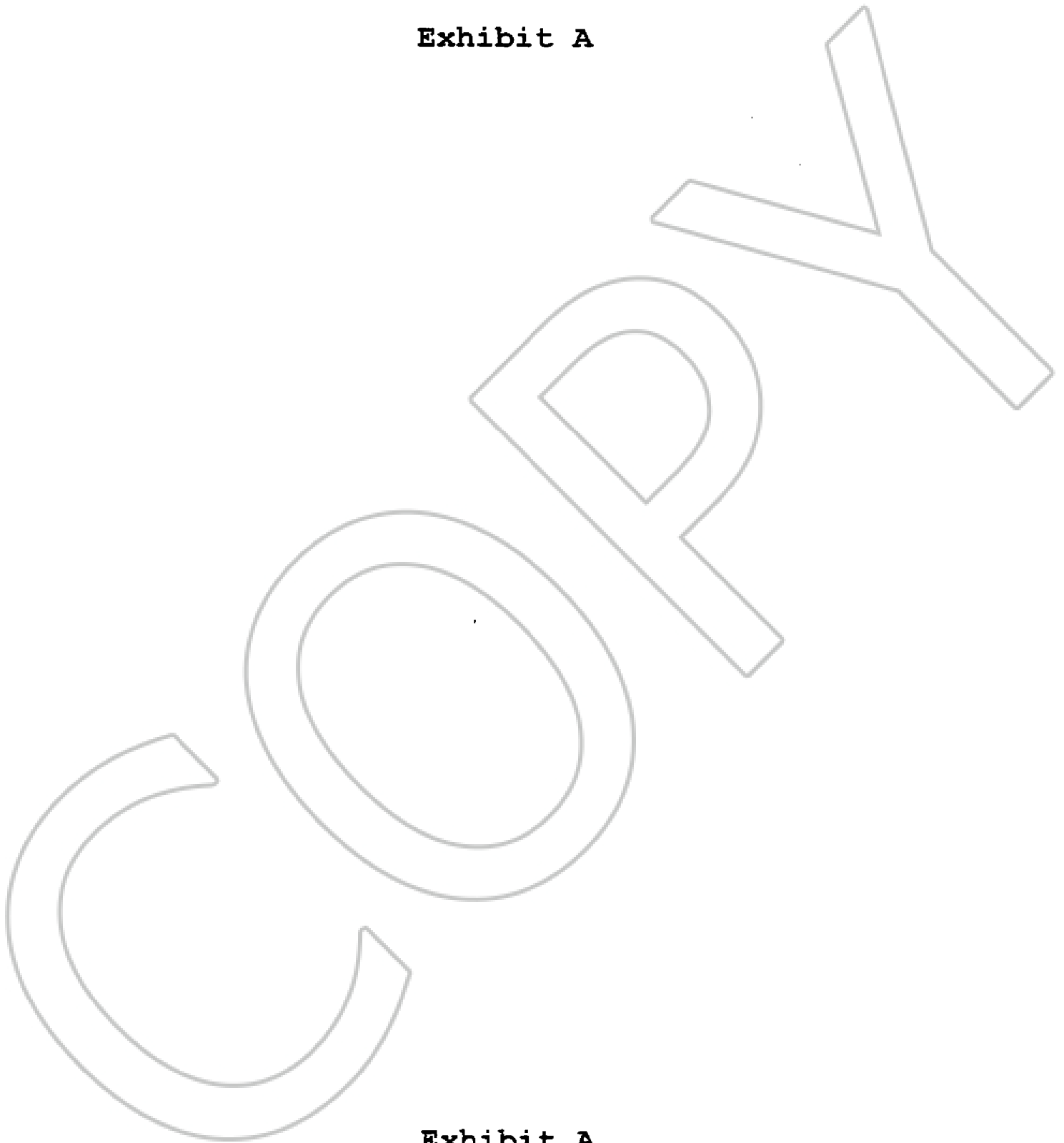


Exhibit A

MARLA BAY INTERVENORS

May 18, 2020

VESTED OWNER	LOCATION	CONTACT INFO.
Boucke, Barbara, Trustee	Lot 8/Block D 1318-09-810-115 625 Lake Shore Blvd.	273 Seadrift Post Office Box 296 Stinson Beach, CA 94970
Breeze, Joseph T. Breeze & Constance T., husband & wife as community property	Lot 7, Block D 1318-09-810-034 623 Lake Shore Blvd.	18 Meadow Way Fairfax, CA 94930
Champion, Darrell F. & Joy H., Trustees	Block E 1318-09-810-061 648 Freel Dr.	Post Office Box 4132 Modesto, CA 95352 209-404-4403 dfchamp@aol.com
Edmundson, John G., Jr. & Nancy P., Trustees (1/2 interest w/White)	Block G 1318-09-810-100 642 Job Ln. B	Post Office Box 105 Genoa, NV 89411-0105 775-783-0608 nedmundston@charter.net
Farnesi, Dennis B. Farnesi & Ana T., Trustees	Lot 24/Block G 1318-09-810-032 633 Freel Dr.	Post Office Box 10864 Zephyr Cove, NV 89448 775-720-1602 775-720-4958
Fulstone, Deeann, Trustee	Lot 10/Block E 1318-09-810-066 636 Freel Dr.	Post Office Box 11694 Zephyr Cove, NV 89448 775-781-5557 deeannf.23@gmail.com
Hindes, F. Scott & Nancy Nelson, Trustees	Lot 3/Block D 1318-09-810-030 615 Lake Shore Blvd.	Post Office Box 859 Zephyr Cove, NV 89448 253-225-1919 hindes57@me.com
Hwang, Paul M. & Judy Fujii-Hwang, husband & wife as joint tenants	Lot 12/Block E 1318-09-810-064 640 Freel Dr.	21201 Canyon Oak Way Cupertino, CA 95014 415-216-8746 650-996-9491 paul@skyboxrealty.com fujiihwang@gmail.com
Lobato, Donald Samuel, an unmarried man	Lot 5, Block D 1318-09-810-032 619 Lake Shore Blvd.	Post Office Box 2727 Zephyr Cove, NV 89448 775-772-2847 samlobato@charter.net

VESTED OWNER	LOCATION	CONTACT INFO.
McQuirk, John A. & Carol A., Trustees	Lot 50/Block G 1318-09-812-010 588 Pharris Ln.	2035 Desert Peach Dr. Carson City, NV 89703 cmcquirk@charter.net
Nelson, Elizabeth A., Trustee	Lot 13/Block D 1318-09-810-076 614 Freel Dr.	Post Office Box 473 Zephyr Cove, NV 89448 916-899-2816
Pike, Phyllis T., Trustee	Lot 1/Block A 1318-09-810-026 598 Lake Shore Blvd.	Post Office Box 11422 Zephyr Cove, NV 89448 775-772-4133 randppr@charter.net
Righetti, Milton E. & Hope, Trustees	Lots 4 & 1 1318-09-810-042 639 Lake Shore Blvd.	Post Office Box 11801 Zephyr Cove, NV 89448 510-861-1669
Schwartz, Garrett D. & Nita, husband & wife as community property	Lot 47/Block G 1318-09-812-013 594 Pharris Ln.	Post Office Box 940 Genoa, NV 89411 775-544-6128 nitasand[REDACTED]@hotmail.com
Smith, Scott M. and Piper L., Trustees	Lot 11/Block E 1318-09-810-065 638 Freel Dr.	1022 Frieda Lane Minden, Nevada 89423 775-691-1777 (Scott) 775-224-2382 (Piper) scott@gr8rdeal.com piperized@gmail.com
Stewart, Cathy J., Trustee	Lot 21/Block G 1318-09-810-084 627 Freel Dr.	Post Office Box 10687 Zephyr Cove, NV 89448 775-721-1188 cathyjstewart@att.net
Swickard, Donald R., Trustee	Lot 137/Block 1318-09-810-105 649 Job Ln.	Post Office Box 415 Zephyr Cove, NV 89448 55873 Congressional LaQuinta, CA 92253
Till, Matthew, a single man	Lot 18/Block D 1318-09-810-071 626 Freel Dr.	Post Office Box 733 Zephyr Cove, NV 89448 503-952-6933 mmtill@yahoo.com
Voss, Charles J. & Martha L., Trustees	Lot 14/Block E 1318-09-810-062 644 Freel Dr.	409 Dina Ct. Gardnerville, NV 89460
White, Edward A. & Patricia P., Trustees (1/2 interest w/Edmundson)	Block G 1318-09-810-100 642 Job Ln. B	23500 Cristo Rey Dr., 219C Cupertino, CA 95014 650-964-1532

Exhibit B

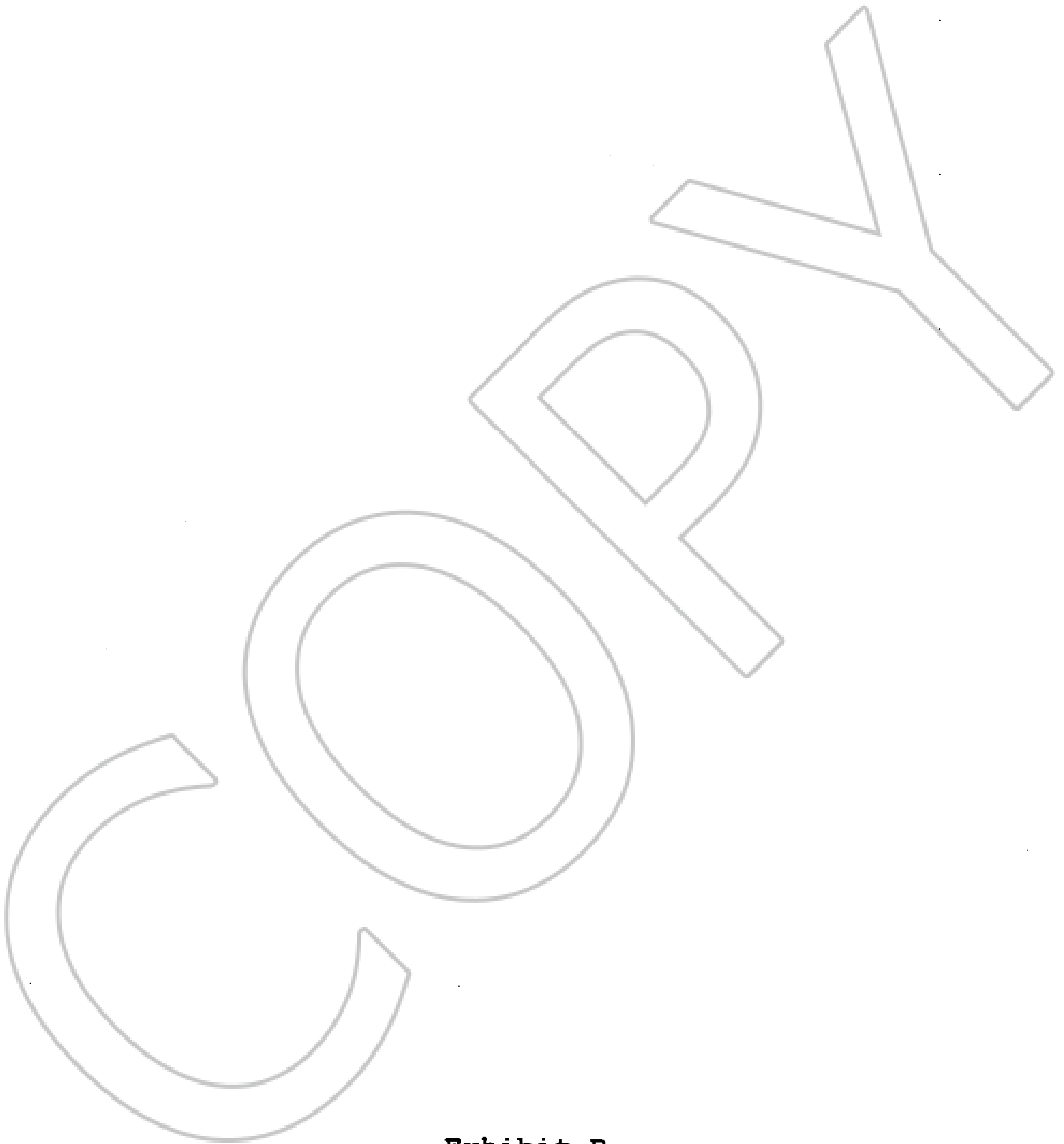


Exhibit B

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLAUDETTE D. VOGEL, TRUSTEE OF
THE VOGEL FAMILY TRUST UNDER
AGREEMENT DATED OCTOBER 25,
2016,

Appellant,

vs.

THE MARLA BAY PROTECTIVE
ASSOCIATION; 610 LAKESHORE LLC,
A NEVADA LIMITED LIABILITY
COMPANY; 650 LAKESHORE LLC, A
NEVADA LIMITED LIABILITY
COMPANY; JOHN F. AHERN AND
JUDITH W. AHERN, TRUSTEES OF
THE JOHN F. AHERN FAMILY TRUST
UTD JULY 13, 1983; RILEY M.
BECKETT AND JANE A. BECKETT, AS
TRUSTEES OF THE BECKETT
FAMILY 1994 TRUST, DATED
DECEMBER 7, 1994; CHARLES D.
BLOCH AND CAROL A. BLOCH, CO-
TRUSTEES OF THE CHARLES D.
BLOCH AND CAROL A. BLOCH
REVOCABLE LIVING TRUST, DATED
APRIL 14, 2000; BARBARA BOUCKE,
AS TRUSTEE, OR THE SUCCESSOR
TRUSTEE OR, TRUSTEES, U/A/D
NOVEMBER 15, 1990, AS AMENDED,
CREATING THE BARBARA BOUCKE
SEPARATE PROPERTY TRUST;
JOSEPH T. BREEZE AND
CONSTANCE T. BREEZE, HUSBAND
AND WIFE AS COMMUNITY
PROPERTY WITH RIGHT OF
SURVIVORSHIP; C. JOEL CASBURN
AND C. LYNN CASBURN; DARRELL F.
CHAMPION AND JOY H. CHAMPION
TRUST, UNDER INSTRUMENT
DATED MARCH 27, 2012; MICHAEL

No. 81123

FILED

DEC 17 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *S. Young*
DEPUTY CLERK

CHILCOAT AND CHERYL CHILCOAT,
HUSBAND AND WIFE AS
COMMUNITY PROPERTY WITH THE
RIGHT OF SURVIVORSHIP;
CHARMAYNE L. ZUCKER, STEVEN F.
PETERSEN AND L. ROBERT LEGOY,
JR., AS CO-TRUSTEES OF THE CLC
FAMILY TRUST, DATED APRIL 15,
2008; CHARLES M. CORSIGLIA, SOLE
TRUSTEE OF THE NANCY M.
CORSIGLIA LIVING TRUST;
SCHUYLER HAMILTON EARL, II,
TRUSTEE OF THE SCHUYLER H.
EARL II LIVING TRUST DATED
9/13/88; NANCY RUTH PAULSON
EDMUNDSON AND EDWARD A.
WHITE AND PATRICIA P. WHITE, AS
TRUSTEES OF THE WHITE FAMILY
TRUST U/A DTD. JUNE 2, 1999; DARIN
G. FAIN, AN UNMARRIED MAN AS
HIS SOLE AND SEPARATE
PROPERTY; DENNIS B. FARNESI AND
ANA T. FARNESI, AS CO-TRUSTEES
OF THE DENNIS B. AND ANA T.
FARNESI REVOCABLE TRUST DATED
APRIL 10, 1992, AND RESTATED
JUNE 17, 2004; SCOTT FINK AND
KATHY KLEIN, TRUSTEES OF THE
SCOTT FINK AND KATHY KLEIN
LIVING TRUST DATED 12-9-91; JOHN
FINLEY; JEANNE FINLEY; JOSEPH
FINLEY; JANE FINLEY; DEEANN
FULSTONE, TRUSTEE OF THE
DEEANN FULSTONE 2010 TRUST,
DATED FEBRUARY 18, 2010; DONNA
HAWKSFORD, AS TRUSTEE OF THE
DONNA HAWKSFORD TRUST, DATED
JULY 9, 2008; SCOTT H. HILKENE,
TRUSTEE OF THE SCOTT H.
HILKENE REVOCABLE TRUST,
DATED MAY 11, 1993; SARAH V.

ANAYA, TRUSTEE OF THE SARAH V. ANAYA TRUST DATED DECEMBER 31, 2003; F. SCOTT HINDES AND NANCY NELSON HINDES, TRUSTEES OF THE F. SCOTT HINDES AND NANCY NELSON HINDES 2012 RESIDENTIAL PROPERTY TRUST, DATED SEPTEMBER 24, 2012; PAUL M. HWANG AND JUDY FUJII-HWANG, HUSBAND AND WIFE; AUDREY J. LAMPERT AS SOLE TRUSTEE OF THE LAMPERT FAMILY TRUST, DATED JULY 23, 2008; JOSHUA DEMPSEY LAMPERT; MARIANNE FULSTONE LEINASSAR; ALAN SCOTT LEINASSAR; DONALD SAMUEL LOBATO; ANDREW CURTIS LUCCHESI; MARLA BAY, LLC, A NEVADA LIMITED LIABILITY COMPANY; JOHN A. MCQUIRK AND CAROL A. MCQUIRK, AS TRUSTEES OF THE MCQUIRK FAMILY 1999 TRUST DATED MAY 13, 1999; ELIZABETH A. NELSON, TRUSTEE OF THE NELSON REVOCABLE TRUST CREATED OCTOBER 5, 2006; PHYLLIS T. PIKE, AS TRUSTEE UNDER THE ROY AND PHYLLIS PIKE FAMILY TRUST AGREEMENT DATED DECEMBER 13, 2007; LARRY B. PILGRIM AND TONI M. PILGRIM AS CO-TRUSTEES OF THE LT PILGRIM REVOCABLE TRUST DATED AUGUST 4, 2015; ROLAND E. RENDE AND PALMINA M. RENDE, AS CO-TRUSTEES OF THE RENDE FAMILY TRUST, U/A DATED SEPTEMBER 9, 1983; MILTON E. RIGHETTI AND HOPE RIGHETTI, TRUSTEES OF THE MILTON & HOPE RIGHETTI 2016 TRUST, UID APRIL 11, 2016;

NICHOLAS D.E. ROSSI, JR. AND DEBRA A. ROSSI, AS CO-TRUSTEES OF THE NICHOLAS D.E. ROSSI, JR. FAMILY TRUST AGREEMENT DATED APRIL 26, 1996, AS AMENDED AND RESTATED; GARRETT D. SCHWARTZ AND NITA S. SCHWARTZ; SCOTT M. SMITH AND PIPER L. SMITH, CO-TRUSTEES OF THE SCOTT M. AND PIPER L. SMITH 2015 REVOCABLE TRUST DATED MAY 18, 2015; JOHN STEPHANS AND MARY STEPHANS, TRUSTEES OF THE STEPHANS LIVING TRUST DATED DECEMBER 14, 2006; CATHY J. STEWART, TRUSTEE OF THE CATHY J. STEWART TRUST, DATED NOVEMBER 17, 2010; DONALD R. SWICKARD, TRUSTEE OF THE DON SWICKARD FAMILY TRUST DATED AUG. 15, 1987; GLORIA JANIS LEE, TRUSTEE OF THE JAN LEE SEPARATE PROPERTY REVOCABLE TRUST; MATTHEW TILL; JAMES S. VOORHEES AND JULIE E. VOORHEES, TRUSTEES OF THE VOORHEES FAMILY TRUST, DATED 3 DECEMBER, 2009; CHARLES J. VOSS AND MARTHA L. VOSS, TRUSTEES OF THE VOSS FAMILY TRUST, DATED MAY 5, 2016; ROBERT E. WHEAR AND TWYLA S. WHEAR, AS CO-TRUSTEES OF THE ROBERT E. WHEAR OREGON RESIDENCE TRUST AGREEMENT DATED APRIL 12, 1999; TODD R. WHEAR; CAROLYN J. WHEAR; MARIANNE WHEAR ANTHONY; SCOTT J. WHITTEN AND MICHELLE L. WHITTEN, AS CO-TRUSTEES OF THE SCOTT J. AND MICHELLE L. WHITTEN FAMILY

TRUST, ESTABLISHED UNDER THE
SCOTT J. AND MICHELLE L.
WHITTEN FAMILY TRUST
AGREEMENT DATED MARCH 11,
2009; LARRY L. WILSON II, TRUSTEE
OF THE LARRY L. WILSON II LIVING
TRUST DATED DECEMBER 17, 2014;
HANS J. WINTSCH AND HEIDI L.
WINTSCH, TRUSTEES OF THE
WINTSCH FAMILY 1984 TRUST
EXECUTED MARCH 15, 1984; SALLY J.
WOOD, AND JAMES J. WOOD,
TRUSTEES OF THE JAMES J. WOOD
TRUST UNDER DECLARATION OF
TRUST DATED DECEMBER 13, 2012;
AND STEVEN C. ZOLA AND BELINDA
S. ZOLA, TRUSTEES OF THE ZOLA
LIVING TRUST DATED DECEMBER
29, 1998; CAROL E. FOSSE, TRUSTEE,
THE CAROL E. FOSSE TRUST DATED
MAY 8, 1998; RPT PROPERTIES, L.P., A
CALIFORNIA LIMITED
PARTNERSHIP; JOHN FRANZIA, JR.
AND MARY LYNNE FRANZIA,
TRUSTEES OF THE JOHN AND MARY
LYNNE FRANZIA TRUST; PAMELA K.
MCNAY, SUCCESSOR TRUSTEE OF
THE JOHN W. MCNAY AND PAMELA
K. MCNAY REVOCABLE INTERVIVOS
TRUST-SURVIVING SPOUSE'S TRUST
U/T/A DATED DECEMBER 18, 1998;
AND BARBARA J. SOURIKOFF,
TRUSTEE OF THE BARBARA J.
SOURIKOFF REVOCABLE TRUST,
U.T.D 29 JULY 2008,
Respondents.

CLAUDETTE D. VOGEL, TRUSTEE OF
THE VOGEL FAMILY TRUST UNDER
AGREEMENT DATED OCTOBER 25,
2016,

Appellant,

vs.

THE MARLA BAY PROTECTIVE
ASSOCIATION; 610 LAKESHORE LLC,
A NEVADA LIMITED LIABILITY
COMPANY; 650 LAKESHORE LLC, A
NEVADA LIMITED LIABILITY
COMPANY; JOHN F. AHERN AND
JUDITH W. AHERN, TRUSTEES OF
THE JOHN F. AHERN FAMILY TRUST
UTD JULY 13, 1983; RILEY M.
BECKETT AND JANE A. BECKETT, AS
TRUSTEES OF THE BECKETT
FAMILY 1994 TRUST, DATED
DECEMBER 7, 1994; CHARLES D.
BLOCH AND CAROL A. BLOCH, CO-
TRUSTEES OF THE CHARLES D.
BLOCH AND CAROL A. BLOCH
REVOCABLE LIVING TRUST, DATED
APRIL 14, 2000; BARBARA BOUCKE,
AS TRUSTEE, OR THE SUCCESSOR
TRUSTEE OR TRUSTEES, U/A/D
NOVEMBER 15, 1990, AS AMENDED,
CREATING THE BARBARA BOUCKE
SEPARATE PROPERTY TRUST;
JOSEPH T. BREEZE AND
CONSTANCE T. BREEZE, HUSBAND
AND WIFE AS COMMUNITY
PROPERTY WITH RIGHT OF
SURVIVORSHIP; C. JOEL CASBURN
AND C. LYNN CASBURN; DARRELL F.
CHAMPION AND JOY H. CHAMPION
TRUST, UNDER INSTRUMENT
DATED MARCH 27, 2012; MICHAEL
CHILCOAT AND CHERYL CHILCOAT,
HUSBAND AND WIFE AS
COMMUNITY PROPERTY WITH THE

RIGHT OF SURVIVORSHIP;
CHARMAYNE L. ZUCKER, STEVEN F.
PETERSEN AND L. ROBERT LEGOY,
JR., AS CO-TRUSTEES OF THE CLC
FAMILY TRUST, DATED APRIL 15,
2008; CHARLES M. CORSIGLIA, SOLE
TRUSTEE OF THE NANCY M.
CORSIGLIA LIVING TRUST;
SCHUYLER HAMILTON EARL, II,
TRUSTEE OF THE SCHUYLER H.
EARL II LIVING TRUST DATED
9/13/88; NANCY RUTH PAULSON
EDMUNDSON AND EDWARD A.
WHITE AND PATRICIA P. WHITE, AS
TRUSTEES OF THE WHITE FAMILY
TRUST U/A DTD. JUNE 2, 1999; DARIN
G. FAIN, AN UNMARRIED MAN AS
HIS SOLE AND SEPARATE
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ANA T. FARNESI, AS CO-TRUSTEES
OF THE DENNIS B. AND ANA T.
FARNESI REVOCABLE TRUST DATED
APRIL 10, 1992, AND RESTATED
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KATHY KLEIN, TRUSTEES OF THE
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FINLEY; JEANNE FINLEY; JOSEPH
FINLEY; JANE FINLEY; DEEANN
FULSTONE, TRUSTEE OF THE
DEEANN FULSTONE 2010 TRUST,
DATED FEBRUARY 18, 2010; DONNA
HAWKSFORD, AS TRUSTEE OF THE
DONNA HAWKSFORD TRUST, DATED
JULY 9, 2008; SCOTT H. HILKENE,
TRUSTEE OF THE SCOTT H.
HILKENE REVOCABLE TRUST,
DATED MAY 11, 1993; SARAH V.
ANAYA, TRUSTEE OF THE SARAH V.
ANAYA TRUST DATED DECEMBER
31, 2003; F. SCOTT HINDES AND

NANCY NELSON HINDES, TRUSTEES OF THE F. SCOTT HINDES AND NANCY NELSON HINDES 2012 RESIDENTIAL PROPERTY TRUST, DATED SEPTEMBER 24, 2012; PAUL M. HWANG AND JUDY FUJII-HWANG, HUSBAND AND WIFE; AUDREY J. LAMPERT AS SOLE TRUSTEE OF THE LAMPERT FAMILY TRUST, DATED JULY 23, 2008; JOSHUA DEMPSEY LAMPERT; MARIANNE FULSTONE LEINASSAR; ALAN SCOTT LEINASSAR; DONALD SAMUEL LOBATO; ANDREW CURTIS LUCCHESI; MARLA BAY, LLC, A NEVADA LIMITED LIABILITY COMPANY; JOHN A. MCQUIRK AND CAROL A. MCQUIRK, AS TRUSTEES OF THE MCQUIRK FAMILY 1999 TRUST DATED MAY 13, 1999; ELIZABETH A. NELSON, TRUSTEE OF THE NELSON REVOCABLE TRUST CREATED OCTOBER 5, 2006; PHYLLIS T. PIKE, AS TRUSTEE UNDER THE ROY AND PHYLLIS PIKE FAMILY TRUST AGREEMENT DATED DECEMBER 13, 2007; LARRY B. PILGRIM AND TONI M. PILGRIM AS CO-TRUSTEES OF THE LT PILGRIM REVOCABLE TRUST DATED AUGUST 4, 2015; ROLAND E. RENDE AND PALMINA M. RENDE, AS CO-TRUSTEES OF THE RENDE FAMILY TRUST, U/A DATED SEPTEMBER 9, 1983; MILTON E. RIGHETTI AND HOPE RIGHETTI, TRUSTEES OF THE MILTON & HOPE RIGHETTI 2016 TRUST, UID APRIL 11, 2016; NICHOLAS D.E. ROSSI, JR. AND DEBRA A. ROSSI, AS CO-TRUSTEES OF THE NICHOLAS D.E. ROSSI, JR.

FAMILY TRUST AGREEMENT DATED APRIL 26, 1996, AS AMENDED AND RESTATED; GARRETT D. SCHWARTZ AND NITA S. SCHWARTZ; SCOTT M. SMITH AND PIPER L. SMITH, CO-TRUSTEES OF THE SCOTT M. AND PIPER L. SMITH 2015 REVOCABLE TRUST DATED MAY 18, 2015; JOHN STEPHANS AND MARY STEPHANS, TRUSTEES OF THE STEPHANS LIVING TRUST DATED DECEMBER 14, 2006; CATHY J. STEWART, TRUSTEE OF THE CATHY J. STEWART TRUST, DATED NOVEMBER 17, 2010; DONALD R. SWICKARD, TRUSTEE OF THE DON SWICKARD FAMILY TRUST DATED AUG. 15, 1987; GLORIA JANIS LEE, TRUSTEE OF THE JAN LEE SEPARATE PROPERTY REVOCABLE TRUST; MATTHEW TILL; JAMES S. VOORHEES AND JULIE E. VOORHEES, TRUSTEES OF THE VOORHEES FAMILY TRUST, DATED 3 DECEMBER, 2009; CHARLES J. VOSS AND MARTHA L. VOSS, TRUSTEES OF THE VOSS FAMILY TRUST, DATED MAY 5, 2016; ROBERT E. WHEAR AND TWYLA S. WHEAR, AS CO-TRUSTEES OF THE ROBERT E. WHEAR OREGON RESIDENCE TRUST AGREEMENT DATED APRIL 12, 1999; TODD R. WHEAR; CAROLYN J. WHEAR; MARIANNE WHEAR ANTHONY; SCOTT J. WHITTEN AND MICHELLE L. WHITTEN, AS CO-TRUSTEES OF THE SCOTT J. AND MICHELLE L. WHITTEN FAMILY TRUST, ESTABLISHED UNDER THE SCOTT J. AND MICHELLE L. WHITTEN FAMILY TRUST

AGREEMENT DATED MARCH 11, 2009; LARRY L. WILSON II, TRUSTEE OF THE LARRY L. WILSON II LIVING TRUST DATED DECEMBER 17, 2014; HANS J. WINTSCH AND HEIDI L. WINTSCH, TRUSTEES OF THE WINTSCH FAMILY 1984 TRUST EXECUTED MARCH 15, 1984; SALLY J. WOOD, AND JAMES J. WOOD, TRUSTEES OF THE JAMES J. WOOD TRUST UNDER DECLARATION OF TRUST DATED DECEMBER 13, 2012; AND STEVEN C. ZOLA AND BELINDA S. ZOLA, TRUSTEES OF THE ZOLA LIVING TRUST DATED DECEMBER 29, 1998; CAROL E. FOSSE, TRUSTEE, THE CAROL E. FOSSE TRUST DATED MAY 8, 1998; RPT PROPERTIES, L.P., A CALIFORNIA LIMITED PARTNERSHIP; JOHN FRANZIA, JR. AND MARY LYNNE FRANZIA, TRUSTEES OF THE JOHN AND MARY LYNNE FRANZIA TRUST; PAMELA K. MCNAY, SUCCESSOR TRUSTEE OF THE JOHN W. MCNAY AND PAMELA K. MCNAY REVOCABLE INTERVIVOS TRUST-SURVIVING SPOUSE'S TRUST U/T/A DATED DECEMBER 18, 1998; AND BARBARA J. SOURIKOFF, TRUSTEE OF THE BARBARA J. SOURIKOFF REVOCABLE TRUST, U.T.D 29 JULY 2008,
Respondents.

***ORDER REVERSING IN PART,
VACATING IN PART, AND REMANDING***

These are consolidated appeals from a district court judgment of dismissal and an award of attorney fees. Ninth Judicial District Court, Douglas County; Thomas W. Gregory, Judge. Appellant Claudia E. Vogel,

as trustee for the Vogel Family Trust Under Agreement Dated October 25, 2016 (the trust) and respondents dispute whether the trust or the Marla Bay Protective Association (MBPA) holds fee simple title to land that sits west of the western lot line of lots 11 and 12 in Block A (collectively, the property) of the Marla Bay residential subdivision at Zephyr Cove.

The district court dismissed the instant suit based on issue preclusion. In the early 1960s, T. H. Borla and others who owned parcels in the same subdivision as the property (collectively, the Borla plaintiffs) sought an injunction against the property's then-owners, the Gustafsons. The injunction would have prevented the Gustafsons from maintaining railings and fences across their property that interfered with the Borla plaintiffs' alleged easement or license to access the sandy portion of the property east of the Gustafsons' fence, between the fence and the Gustafsons' house. MBPA's grantor, Zephyr Cove Properties, Inc., was not a party to the litigation. The district court denied the injunction, rejected the Borla plaintiffs' easement and license claims, and "ORDERED, ADJUDGED and DECREED" as follows:

1. That the prayer by the plaintiffs to declare an irrevocable easement or oral license in their favor to the use of a certain portion of the sand beach which lies within the lot lines of defendants be, and the same hereby is, denied.
2. That the prayer by the plaintiffs that the defendants be enjoined from maintaining their present railings or fences and from in any manner preventing plaintiffs from the unhampered use of the entire beach by virtue of the alleged irrevocable easement or oral license be, and the same hereby is, denied.

The availability of issue preclusion is reviewed de novo, although "[o]nce it is determined that [it] is available, the actual decision to

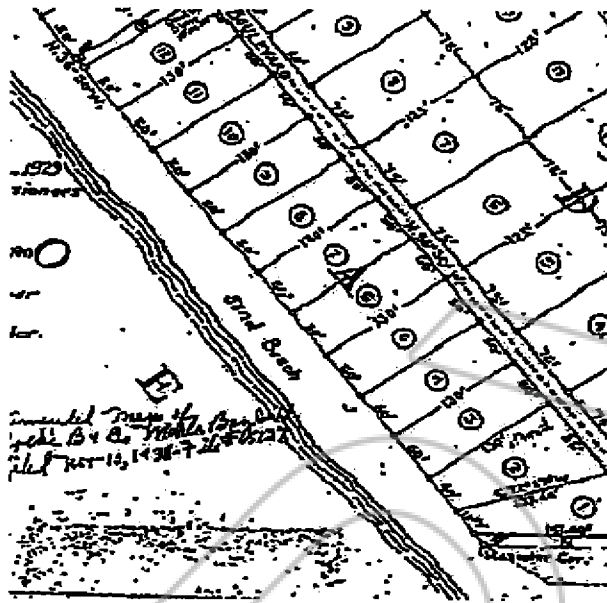
apply it is left to the discretion of the district court.” *State, Univ. & Cmty. Coll. Sys. v. Sutton*, 120 Nev. 972, 984, 103 P.3d 8, 16 (2004). As relevant here, issue preclusion attaches only to determinations of issues that were actually litigated and essential to the judgment. *Holt v. Reg'l Tr. Servs. Corp.*, 127 Nev. 886, 891, 266 P.3d 602, 605 (2011); see *Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 262, 321 P.3d 912, 918 (2014). Thus, if the common issue was “necessary to the judgment in the earlier suit, its relitigation will be precluded.” *Univ. of Nev. v. Tarkanian*, 110 Nev. 581, 599, 879 P.2d 1180, 1191 (1994), holding modified on other grounds by *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 114 Nev. 823, 963 P.2d 465 (1998); see Restatement (Second) of Judgments § 27 (1982 & Supp. 2021) (“*Determinations not essential to the judgment.* If issues are determined but the judgment is not dependent upon the determinations, relitigation of those issues . . . is not precluded.”).

Here, in the findings of fact and conclusions of law supporting its judgment, the district court stated that the “plaintiffs’ only rights to the use of the sand beach are between the lake shore and the front lot lines of the property owned by the defendants.” The district court and the respondents in this case rely on this statement to support the availability of issue preclusion, but it was not essential to the district court’s judgment. See Restatement (Second) of Judgments § 27 (providing that determinations of issues that are not essential to the judgment “have the characteristics of dicta”); see also *Santana-Albarran v. Ashcroft*, 393 F.3d 699, 701-05 (6th Cir. 2005) (rejecting petitioner’s argument that collateral estoppel applied in his favor because, although the immigration judge in his case implicitly found that petitioner had been continuously present in the United States for over ten years, such determination was not necessary to answer the

question of petitioner's status in the country). The limited question in the Borla litigation was whether the Borla plaintiffs had the right to access the portion of the sand beach lying east of the fence, which all parties conceded was at or within the Gustafsons' western lot line. As such, whether the Borla plaintiffs had a right to access land west of the western lot line did not affect the court's resolution in its judgment of that question.¹

Even if issue preclusion is not available, respondents urge that the district court properly granted summary judgment because there is no "genuine dispute as to any material fact." NRCP 56(a). "This court reviews a district court's grant of summary judgment de novo, without deference to the findings of the lower court." *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). The parties here dispute the significance of three facts, stemming from a segment of the subdivision map: first, that the western lot line of the subdivision map appears to begin at a point marked "meander cor."; second, that the bearing of that line matches the bearing of a meander line on an 1867 United States government survey (the survey) of the same area; and third, that the western lot line is of approximately the same length as the meander line on the survey.

¹Because this element of issue preclusion is plainly not met, we do not reach the others. See *Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1055, 194 P.3d 709, 713 (2008) (describing four factors as "necessary for application of issue preclusion").



Based on these facts, appellant urges the court to conclude that the western lot line is a meander line, such that “the water course, and not the meander line, marks the boundary of the property.” *Michelsen v. Harvey*, 107 Nev. 859, 862, 822 P.2d 660, 662 (1991); see NRS 321.595. Respondents maintain that the western lot line is fixed and the property is not littoral, and the district court agreed, finding that the map reflects the developer’s clear intention to reserve Sand Beach, the land west of the lot line.

Yet, even considered in tandem, whether the notation of “meander cor.,” the indicated bearing of the line, and the line’s distance signify a conveyance to the meander line is a question of disputed material fact as to the mapper’s intent. Depending on context, an intention to convey to the meander line might be indicated by a graphic representation, such as a “series of short, straight lines,” 11 C.J.S. *Boundaries* § 14 (2019), parallel wavy lines, see *Sikes v. Moline Consumers’ Co.*, 127 N.E. 342, 343-44 (Ill. 1920) (“The wavy lines indicating the river boundary aforesaid are the ones commonly used by surveyors and which are usually spoken of as one of the

conventional river signs . . .”), or a “meandering line,” *Stott v. Stevens*, 873 P.2d 380, 382 (Or. Ct. App. 1994) (finding it significant that “the western boundary of the plat is a meandering line and the southwest corner of the plat is six feet farther west than the northwestern corner”). Here, by contrast, the western lot line is none of these, but rather it is a straight, unbroken line; to its west is an area marked “Sand Beach,” and to the west of that are wavy lines that appear to indicate Lake Tahoe waves.

A mapper’s intent might alternatively be indicated by well-known terms of art, such as in *Michelsen*, in which the deed described the property as “[b]eginning at the meander corner . . . [then] . . . on the meander line to the place of beginning.” *Michelsen v. Harvey*, 107 Nev. 859, 861, 822 P.2d 660, 661-62 (1991); see also *Andersen v. Monforton*, 125 P.3d 614, 619 (Mont. 2005) (“thence meandering”). Determining whether such terms of art are sufficiently present in this map poses difficult questions of how the map reflects both historical surveying custom—especially in a lot-and-block subdivision near the water—and the relevant legal requirements. See 1929 Nev. Stat., ch. 187, § 2, at 339-40 (establishing that plats were required to show, “[b]y course and distance, the position of one or more of the monuments with reference to a known and established corner of the public-land survey”); *Galardi v. Naples Polaris, LLC*, 129 Nev. 306, 310, 301 P.3d 364, 367 (2013) (“Modernly, courts consult trade usage and custom not only to determine the meaning of an ambiguous provision, but also to determine whether a contract provision is ambiguous in the first place.”). For example, although the parties disagree about the significance of the map’s reference to a meander corner—with appellant asserting that its location matches the origin point for the meander line on the survey, and respondents countering that it is featured on the map merely to fulfill a

legal requirement—they have not developed sufficient evidence on the term’s usage in this context to justify a grant of summary judgment. Additional factual development of this kind may explain if the map is ambiguous in the first place, and if the map alludes to or references facts beyond it. See 11 C.J.S. *Boundaries* § 188 (2019) (describing the standards for admissible evidence in an action to judicially determine boundaries, such as an action to quiet title).

Finally, “[i]n the absence of extrinsic evidence, the intent of the parties to a deed should be ascertained by resort to the rules of construction of deeds, such as the familiar rule that boundaries are established in descending order of control.” 11 C.J.S. *Boundaries* § 82 (2019). That order of control is, “[f]irst, natural monuments or objects, like mountains, lakes, and streams; second, artificial marks, stakes, or other objects . . . ; third, courses and distances . . . ; lastly, recitals of quantity.” *Thomsen v. Keil*, 48 Nev. 1, 8, 226 P. 309, 311 (1924) (quoting *United States v. Redondo Dev. Co.*, 254 F. 656, 658 (8th Cir. 1918)). In this case, it is unclear whether the map’s depiction of a sand beach as to the west of a boundary line originating at a meander corner is consistent with the real-world locations of the beach and the corner in the late 1920s, and to the extent there is any inconsistency, the rules of construction may clarify intent.

In sum, given the map’s visual configuration and the absence of an explicit reference to a “meander line,” determining the mapper’s intent requires additional factual development. Because issue preclusion is not available to respondents and questions of disputed material fact remain, the district court erred by dismissing the suit and likewise by awarding attorney fees to respondents. Accordingly, we reverse the district court’s

dismissal of the underlying suit, vacate the award of attorney fees, and remand to the district court for proceedings consistent with this order.

It is so ORDERED.

Cadish J.
Cadish

Pickering J.
Pickering

Herndon J.
Herndon

cc: Hon. Thomas W. Gregory, District Judge
David Wasick, Settlement Judge
Alling & Jillson, Ltd.
Hopkins & Carley, ALC
Feldman Thiel, LLP
Law Offices of Thomas J. Hall
Douglas County Clerk

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This document is a full, true and correct copy of the original on file and of record in my office.

DATE: 4/5/24

Supreme Court Clerk, State of Nevada

By *[Signature]* Deputy

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

DATE 04.08.2024

BOBBIE R. WILLIAMS Clerk of Court
of the State of Nevada, in and for the County of Douglas.

By *S. Weidner* Deputy