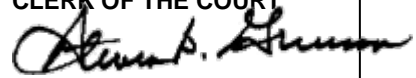


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11 **EIGHTH JUDICIAL DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 LINDSEY LICARI, an individual,
14
15 Plaintiff,

16 v.

17 NIKKI SIKALIS BOTT, an individual;
18 NATIONAL TITLE CO., a Nevada corporation;
19 LINDA NAW, an individual; ERA BROKERS, a
20 Nevada Corporation; VALLEY WEST
21 MORTGAGE, a Nevada Corporation; DREW
22 LEVY, an individual; BOBBY ANTEE, an
23 individual; ONE REALTY GROUP, a Nevada
24 corporation; MELISSA PARKER, an individual;
25 MELANIE TREANOR, an individual;
26 GREATER LAS VEGAS ASSOCIATION OF
27 REALTORS; a Nevada corporation; NEVADA
28 REAL ESTATE DIVISION BUSINESS AND
INDUSTRY; a Nevada corporation; LINDA
STRATTON, an individual; INGRID TRUJILLO,
an individual; DARYL MCCLOSKEY, an
individual; VATCHE SAJIDIAN, an individual;
DOES I through X; and ROE CORPORATIONS I
through X, inclusive,

Defendants.

Case No: A-20-820980-C
Dept No: 32

DEFENDANTS LINDA NAW AND
BOBBY ANTEE'S OPPOSITION TO
LINDSEY LICARI'S MOTION FOR
QUIET TITLE AND SUMMARY
JUDGMENT

DEFENDANTS LINDA NAW NAD BOBBY ANTEES' OPPOSITION TO LINDSEY
LICARI'S SUPPLEMENTAL MOTION TO PLAINTIFF'S MOTION FOR QUIET
TITLE AND SUMMARY JUDGMENT

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COME NOW, Defendants LINDA NAW also known as LINDA PERDUE (“Ms. Naw”) and BOBBY ANTEE (“Mr. Antee”) (collectively with Ms. Naw, “Defendants”) by and through their counsel of record, the law firm of Shumway Van, and hereby submit this Opposition to Lindsey Licari’s (“Plaintiff”) Motion for Quiet Title and Summary Judgment,¹ both filed on October 14, 2020.

This Opposition is made and based upon the following Memorandum of Points and Authorities, the pleadings and papers on file herein, and any oral arguments this Court may allow at the time of hearing.

DATED this 28th day of October, 2020.

SHUMWAY VAN

By: /s/ Margaret A. Manning, Esq.
GARRETT R. CHASE, ESQ., #14498
MARGARET A. MANNING, ESQ., #15275
8985 South Eastern Avenue, Suite 100
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*Attorneys for Defendants Linda Naw
& Bobby Antee*

¹ Plaintiff’s Motion was filed with this Court and titled as “Opposition to Defendant ERA Brokers Motion to Dismiss Pursuant to NRCP 12(B)(5) and Defendant Lind Naw [sic] Motion to Declare Lindsey Licari a Vexatious Litigant and Dismiss the Complaint or in the Alternative Motion to Say and Defendant Bobby Antee's Motion to Declare Lindsey Licari a Vexatious Litigant and Dismiss the Complaint, or in the Alternative Motion to Stay and Defendant Greater Las Vegas Association of Realtors and Ingrid Trujillo Motion to Dismiss Plaintiff's First Amended Complaint, or in the Alternative Motion to Stay and Defendant's Greater Las Vegas Association of Realtors and Ingrid Trujillo's Motion to Dismiss Plaintiff's First Amended Complaint; Motion to Strike Plaintiff's Second Amended Complaint and Plaintiff's Motion for Quiet Title and Plaintiff's Motion for Summary Judgment.” This Opposition responds to Plaintiff’s Motion to the extent it is characterized as a Motion for Quiet Title and Motion for Summary Judgment. Defendants expressly reserve the right to timely file Replies in Support of their previous Motion to Dismiss or Stay.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff's Motion and the relief requested therein for summary judgment and quiet title are
4 entirely inappropriate at this time given the procedural posture of this case and the circumstances
5 surrounding Plaintiff's other litigation. Moreover, even on its face, Plaintiff's Motion fails to
6 demonstrate that she is entitled to either quiet title or summary judgment as to Defendants in this
7 matter.

8 **II. STATEMENT OF RELEVANT FACTS**

9 In November 2017, Plaintiff married Defendant Mr. Antee (whom she is currently
10 litigating against in divorce proceedings under District Court Case Number D-18-873154-D).
11 Shortly after the marriage, Plaintiff and Mr. Antee decided to purchase a home. Ms. Naw was the
12 realtor who helped Plaintiff and Mr. Antee find their marital home. Shortly after the purchase of
13 the marital home, Plaintiff and Mr. Antee's relationship soured, culminating in Ms. Licari filing
14 for divorce in July 2018.

15 In the decree of divorce (the "Divorce Decree"), the Honorable Judge Rena G. Hughes
16 found that Plaintiff's testimony "that she did not know she was wiring funds to close the sale is
17 not credible."² Judge Hughes also finds that "Lindsey [Licari] did not meet her burden of proof by
18 clear and convincing evidence that Bobby committed fraud against Lindsey [Licari] by having the
19 marital home placed solely in to his name at the time of purchase.³ Finally, in the Divorce Decree,
20 Judge Hughes ordered that the marital residence "...be listed for sale."⁴ Due to: (1) the
21 jurisdictional limitations in Family Court cases, (2) the fact that neither Ms. Naw or Mr. Antee are
22 claiming any interest in the marital property as it pertains to this suit, and (3) that any dispute
23 regarding interests in the marital property is reserved to the aforementioned family court case, this
24 Court should deny Plaintiff's Motion for Quiet Title and deny Plaintiff's Motion for Summary
25 Judgment against Ms. Naw and Mr. Antee.

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28 ² Decree of Divorce at pg. 8, filed August 5, 2020-Case Number D-18-573154-D.

³ Id. at pg. 11.

⁴ Id. at pg. 16.

1 **III. LEGAL ARGUMENT**

2 **A. Plaintiff is Not Entitled to Summary Judgment Because There Are**
3 **Significant Factual, Legal, and Procedural Issues That Cannot Be**
4 **Resolved in Plaintiff's Favor at This Time.**

5 Summary judgment is appropriate where no genuine issues of material fact exist, and the
6 moving party is entitled to judgment as a matter of law.⁵ A party moving for summary judgment
7 must support the assertion by:

8 (A) citing to particular parts of materials in the record, including depositions,
9 documents, electronically stored information, affidavits or declarations,
10 stipulations (including those made for purposes of the motion only), admissions,
11 interrogatory answers, or other materials; or

12 (B) showing that the materials cited do not establish the absence or presence of a
13 genuine dispute, or that an adverse party cannot produce admissible evidence to
14 support the fact.⁶

15 In determining whether a fact is material, the court shall look to the substantive law of the
16 claims and only disputes over facts that might affect the outcome of the suit under the governing
17 law will properly preclude the entry of summary judgment.⁷ When a motion for summary judgment
18 is made and supported as required by NRCP 56(c), the adverse party may not rest on the mere
19 allegations of his pleadings, but they must, by affidavit or otherwise, set forth facts demonstrating
20 the existence of genuine issues for trial.⁸

21 The Court must first determine, based on the facts presented taken in the light most
22 favorable to the non-moving party “whether issues of material fact exist, thus precluding judgment
23 by summary proceeding.”⁹ However, while the facts presented must be construed in a light most
24 favorable to the non-moving party, the non-moving party must “do more than simply show that
25 there is some metaphysical doubt as to the operative facts in order to avoid summary judgment
26 being entered in the moving party’s favor.”¹⁰

27

28 ⁵ NRCP 56(a).

⁶ NRCP 56(c).

⁷ Wood v. Safeway, Inc., 121 Nev. 724, 727, 121 P.3d 1030 (2005) (quoting Anderson v. Liberty Lobby, 477 U.S. at 247-48, 106 S.Ct. 2505).

⁸ Id.

⁹ National Union Fire Ins. Co. v. Pratt & Whitney Canada Inc., 107 Nev. 535 (1991).

¹⁰ Matsushita Electric Industrial Co. v. Zenith Radio, 475 U.S. 574, 586 (1986), cited by Wood, 121 Nev. at 731, 121 P.3d at 1031-32.

1 The non-moving party must set forth specific facts demonstrating the existence of a
2 genuine issue for trial or have summary judgment entered against him.¹¹ A factual dispute is
3 genuine if the evidence is such that a rational trier of fact could return a verdict for the non-moving
4 party.¹² However, if no evidence supporting the non-moving party’s allegations exists, summary
5 judgment is appropriate as the purpose of a motion for summary judgment is to obviate trials when
6 they would serve no useful purpose.¹³

7 Here, Plaintiff submits a cluster of unsupported allegations against Defendants and
8 Nineteen (19) other parties. These allegations center around what can only be described as a
9 conspiracy theory that Plaintiff has recited in at least six other court actions.¹⁴ To the extent that
10 this Court looks past the vexatious and frivolous nature of Plaintiff’s claims, those same claims
11 against these Defendants are already being litigated in other actions.

12 Specifically, Plaintiff’s claims against Mr. Antee are the subject of several motions and an
13 appeal associated with the divorce under Case No. D-18-573154-D. As such, those allegations
14 cannot support summary judgment in any other forum as the crux of Plaintiff’s claims against Mr.
15 Antee rely on a conspiracy that has already been determined unsubstantiated by Judge Hughes.
16 Specifically, Judge Hughes found “Lindsey [Licari] did not meet her burden of proof by clear and
17 convincing evidence that Bobby committed fraud against Lindsey [Licari] by having the marital
18 home placed solely in to his name at the time of purchase.¹⁵ Accordingly, Judge Hughes ordered
19 the marital residence at the heart of plaintiff’s suits “...be listed for sale.”

20 Similarly, Plaintiff’s claims against Ms. Naw are already the subject of a separate litigation,
21 under District Court Case Number A-18-786141-C (“Naw Civil Case”), in which discovery has
22 closed and the competing motions for summary judgment have been filed.

23 ...

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26 ¹¹ Bulbman Inc. v. Nevada Bell, 108 Nev. 105, 110, 825 P.2d 588, 591 (1992).

27 ¹² Delgado v. American Family Ins. Group, 217 P.3d 563, 568 (2009).

28 ¹³ Borgerson v. Scanlon, 117 Nev. 216 (2001); see also Short v. Hotel Riviera, Inc., 79 Nev. 94 (1963).

¹⁴ As noted in Defendants’ respective Motions to Dismiss or Stay, those cases have all been filed in Clark County, and include case numbers - A-18-786141-C, D-18-573154-D, D-18-581756-S, A-20-820446-C, A-20-820963-C, A-20-821757-J, A-20-808737-C.

¹⁵ Id. at pg. 11.

1 Based on the aforementioned and the fact that genuine issues of material fact remain,
2 Plaintiff's request for summary judgment should be denied.

3 **B. Plaintiff Cannot Bring a Quiet Title Action Because Judge Hughes'**
4 **Finding and Order Leave No Room for Plaintiff to Claim Any Interests in**
5 **the Marital Property.**

6 In Nevada, NRS 40.010 allows a quiet title action to be brought "by any person against
7 another who claims an estate or interest in real property, adverse to the person bringing the action
8 for the purpose of determining such adverse claim." Additionally, "[a] quiet title claim "does not
9 require any particular elements, but 'each party must plead and prove [their] own claim to the
10 property in question' and a 'plaintiff's right to relief therefore depends on superiority of title.'"¹⁶

11 In effect, this means that all that is necessary to sufficiently plead a quiet title claim are
12 factual allegations sufficient to show that the plaintiff has an interest in the property, and that the
13 defendant has an adverse interest in the property.¹⁷

14 Here, Plaintiff cannot sufficiently plead Quiet Title on the marital property in this litigation
15 because she has not and cannot and has not provided factual allegations or evidence sufficient to
16 show she has a sole interest in the marital property. In addition to and specifically relating to
17 Plaintiff's Quiet Title action, Judge Hughes has already determined that Plaintiff did not meet the
18 requisite burden with evidence showing that Mr. Antee committed defraud Plaintiff by having the
19 marital home deeded solely in to his name. Accordingly, Judge Hughes ordered the marital
20 residence "...be listed for sale." Based on such, Judge Hughes' findings and binding order leave
21 no room for Plaintiff to claim any sole interest in the marital property, especially within this action.
22 As Plaintiff has not and cannot provide sufficient evidence to support her Motion for Quiet tile,
23 Defendants request that this Court deny Plaintiff's Motion for Quiet Title.

24 ...

25 ...

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27 ¹⁶ Chapman v. Deutsche Bank Nat'l Trust Co., 129 Nev. 314, 318 (2013) (quoting Yokeno v. Mafnas, 973 F.2d 803,
808 (9th Cir. 1992).

28 ¹⁷ Nationstar Mortgage, LLC v. Berezovsky, 2016 WL 1064477 at *3 (D. Nev. Mar. 2016) (refusing to grant a motion
to dismiss because the plaintiff had "at least nominally" made a sufficient showing/allegation that the defendant had
a present interest in the property adverse to that of the plaintiff).

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IV. CONCLUSION

As detailed above, Plaintiff has failed to satisfy any aspect of the requisite standard under NRCP 56 to warrant summary judgment in this matter. Additionally, Plaintiff has failed to submit evidence in support of the relief requested for Quirt title. Due to such failures, Defendants Ms. Naw and Mr. Antee request that this Court deny Plaintiff’s Motion for Summary Judgment and deny Plaintiff’s Motion for Quiet Title.

DATED this 28th day of October 2020.

SHUMWAY VAN

By: */s/ Margaret A. Manning, Esq.*
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CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I hereby certify that on this 28th day of October 2020, service of a true and correct copy of the foregoing **DEFENDANTS LINDA NAW AND BOBBY ANTEES' OPPOSITION TO LINDSEY LICARI'S MOTION FOR QUIET TITLE AND MOTION SUMMARY JUDGMENT** was made via electronic submission with the Eighth Judicial District Court to all parties registered on the electronic service list for the above-entitled action.

/s/ Marina Scott
Employee of Shumway Van