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RN5034-001

August 21, 2019

**VIA ELECTRONIC**  
tracy.carter@fsresidential.com

Board of Directors  
Somerset Owners Association  
c/o First Service Residential  
7650 Town Square Way  
Reno, Nevada 89523

Attention: Tracy Carter

Re: Somerset Owners Association (the "Association")

Dear Board Members:

This is a letter which is not subject to the attorney client privilege and which may be disseminated to members of the Association regarding certain matters in which we are presently representing the Association. The purpose of this letter is to apprise the members of such matters and/or for them to utilize such letter in complying with NRS 116.4109 if they are selling their homes.

**Somerset Owners Association adv. Lawrence Adam Morrison**  
Washoe Co. District Court Case No. CV14-01081

On or about May 20, 2014, Lawrence Adam Morrison filed a complaint in the district court against Pulte Mortgage, LLC, Barbara Holmes and Bank of America, N.A. ("BANA") requesting quiet title on the property. Mr. Morrison requested the court to rule that he, as the present owner post-foreclosure, owns the property free and clear of the other parties' interests in the property, such as a bank lien due to the original owner's mortgage. On June 3, 2016, BANA filed their Amended Answer and Counterclaim against the Association and served the Counterclaim on July 25, 2016. BANA's Counterclaim argued that the foreclosure was improper and therefore they still have a security interest in the property, i.e. that their original mortgage lien was not wiped out by the foreclosure. On August 15, 2016, the Association filed their Answer with a Counterclaim against United Legal Services, Inc. ("ULS") and Atkinson Law Associates, Ltd. The Association alleged that they contracted with and relied upon ULS to

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perform the collections and/or foreclosure services correctly and in accordance with all legal requirements.

On August 22, 2016, the Association filed a Voluntary Dismissal of Atkinson Law Associates. On September 1, 2016, an Order extending discovery deadlines was executed and filed. The original discovery cut off was January 5, 2017. The Association served their initial disclosures on September 21, 2016. Additionally, the Association will analyze documents disclosed by the other parties as they are produced. On March 3, 2017, due to a pending Supreme Court case, the court stayed the case and ordered Plaintiff to maintain the status quo and payments.

A status conference was scheduled for August 18, 2017, however it did not go forward and was not rescheduled before the stay went into place.

On September 15, 2017, counsel for Plaintiff filed a Motion to Withdraw due to non-payment of attorney's fees. On November 1, 2017, the Law Office of Mike Beede, PLLC substituted in as counsel for Plaintiff Lawrence Adam Morrison.

On November 30, 2017, this matter was stayed by the Court. BANA's counsel provided a proposed Stipulation and Order and on behalf of the Association, we agreed to sign the Stipulation. However, Plaintiff refused to agree to a lift of the stay; therefore on February 8, 2019, counsel for Bank of America filed a Motion to Lift Stay.

On February 28, 2019, Plaintiff filed an Opposition to Bank of America's Motion to Lift the Stay claiming the motion to lift the stay is premature. Plaintiff's opposition stated there is pending case law that is considered as central issues to this case. On March 25, 2019, Bank of America filed a reply in support of its Motion to Lift the Stay. Without conducting a hearing, on March 28, 2019, the Court lifted the Stay, thereby granting Bank of America's Motion.

On April 10, 2019, the parties conducted a telephonic meet and confer to discuss potential deadlines. The Parties executed and submitted a proposed stipulation and order with a discovery cut off of August 6, 2019, to the Court. To date, the Court has not executed the proposed order.

**Somerset Owners Association v. Somerset Development, et al.**

Washoe County District Court Case No. CV17-02427

On December 29, 2017, on behalf of the Association, we filed a civil action against Somerset Development and other parties regarding defects found by American Geotechnical in the over 70,000 lineal feet of common area rockery walls. One day earlier we served the NRS

Chapter 40 defect notices on the same entities. The developer has engaged counsel who has been in contact with the Association's counsel to discuss preliminary issues and scheduling. We will be in a position to provide more details in future updates as the litigation proceeds.

On April 11, 2018, a Doe Amendment to the Complaint was filed, substituting true named parties for fictitious names.

Inspections of the property took place on April 23, 2018. On April 27, 2018, Parsons Bros Rockeries California, Inc. was dismissed without prejudice and on May 10, 2018, Parsons Rocks! LLC was also dismissed without prejudice.

On May 3, 2018, a First Amended Complaint was filed on behalf of the Association. On May 10, 2018, a Stipulation and Order for Dismissal Without Prejudice was filed, dismissing Parsons Rocks! LLC.

Mediation between the principal litigants was held on June 22, 2018. Mediation proceedings are confidential, so the details of the session cannot be disclosed. However, although the case did not settle, significant progress was made among and between respective counsel regarding certain procedural matters which will expedite determining the rights of the parties and the course of the case.

On July 31, 2018, as part of discovery, we began disclosing documents to all parties on behalf of the Association and will continue to disclose as required by the rules.

On August 13, 2018, Q&D Construction filed its Answer to the First Amended Complaint. On August 17, 2018, Somerset Development Company filed an Answer to the First Amended Complaint and Cross-Claim. On August 17, 2018, Somerset Development Company, Somerset LLC and Somerset Development Corporation ("Somerset Defendants") filed a Demand for Jury Trial. On August 21, 2018, Parsons Bros Rockeries filed its Answer to the First Amended Complaint. On August 29, 2018, the Somerset Defendants filed a Third-Party Complaint against Stantec Consulting, Inc., which filed its Answer on August 30, 2018.

On August 31, 2018, a Request for Exemption from Arbitration was filed due to the case involving an amount in excess of \$50,000 per plaintiff. The Request was unopposed and granted on September 11, 2018.

The Early Case Conference took place on September 11, 2018, and the Joint Case Conference Report was filed on October 17, 2018. The discovery cutoff was set for December 31, 2019, with a jury trial scheduled for February 3, 2020.

The discovery phase commenced with the parties propounding discovery requests and responding to the requests.

On December 26, 2018, a Notice of Repairs was served upon the parties notifying them that repairs, alteration, and/or modifications on the slope stabilization will commence on or after January 21, 2019, in the common area along Gypsy Hill Trail at Timaru Trail. The repairs will continue until completion. Additional inspections took place on February 15, 2019.

On January 17, 2019, on behalf of the Association, we filed a Motion to Strike Certain Affirmative Defenses Relating to Statutes of Limitations and Repose. With client permission and pursuant to stipulation, Parsons Bros Rockeries was dismissed out of the Association's January 17, 2019 Motion to Strike Certain Affirmative Defenses on March 26, 2019. All briefing on the motion is done and we are awaiting a Court ruling.

On January 31, 2019, Defendant Parsons Bros Rockeries served their First Set of Requests for Admissions upon the Association and Defendant Somerset Development Company. The Association and Defendant Somerset Development Company responded on March 5, 2019.

On March 26, 2019, Somerset Development Company filed a Separate Motion for Summary Judgment based on the statute of repose. On that same day, Defendants also filed a companion Joint Motion for Summary Judgment based on the provisions of NRS 40.668. Plaintiff filed Oppositions on April 26, 2019.

On April 24, 2019, Parsons Bros Rockeries filed a Motion for Summary Judgment against the Association and Somerset Development Company based upon the fact that Parsons was legally dissolved as of October 18, 2019, and is protected under NRS 78.585 which provides a three-year limitation period to sue dissolved corporations.

On May 7, 2019, counsel for Stantec issued a letter challenging certain opinions and conclusions of Plaintiff's expert witnesses as expressed in Plaintiff's opposition pleadings, as well as the arguments based on these opinions and conclusions. Supplemental Declarations and exhibits were filed in response on May 13, 2019, along with a reply letter.

On May 8, 2019, a Stipulation and Order was filed vacating the current February 3, 2020 trial date along with all related pretrial dates and deadlines, including all discovery deadlines previously agreed to by the Parties. The parties were ordered to meet and confer within ten days of the ruling to reset discovery and trial deadlines. That meet and confer proceeding has not yet

been scheduled. Until the Court sets a new trial date, the parties cannot meet and confer regarding discovery deadlines.

All briefing for the March and April Motions for Summary Judgment has been completed and submitted to the Court for ruling. A hearing was requested in Plaintiff's Motion and opposition pleadings, however, whether to set a hearing is discretionary with the Court. Until the Court has ruled on the pending motions it is premature to set a trial date.

On July 2, 2019, the Court issued Orders on both Defendant Somerset Development Company and Defendant Parson Brothers Rockeries' Motions for Summary Judgment. The Order stated that the "statute of repose and statutes of limitations issues are potentially case determinative and may render this motion practice moot. The Court would also note the parties have only conducted discovery into the statute of repose and statutes of limitations issues, as discovery was divided into phases." "For this reason, the Court believes delaying a ruling on this motion practice is the prudent and efficient course of action." Both parties may re-submit their Motions following the Court's ruling on the Motions for Summary Judgment being heard July 15, 2019.

Plaintiff's Motion to Strike Certain Affirmative Defenses Relating to Statutes of Limitations and Repose, Defendants' Motion for Summary Judgment and Somerset Development Company's Separate Motion for Summary Judgment were heard on July 15, 2019. The Judge took the motions under submission and has yet to issue a ruling.

**Somerset Owners Association adv. Todd and Rachelle Shaw**  
**NRED Case No.: 2018-1904 / SJDC Case No.: CV19-00120**

On or about July 19, 2018, owners Todd and Rachelle Shaw filed a complaint against the Association with the Nevada Real Estate Division seeking mediation. The complaint alleges that the Association improperly denied the Shaws' application for architectural changes to their home consisting of certain exterior lights and paint, and further, alleging that the Association improperly fined them for installing the proposed changes without having first obtained association approval. The Association tendered the complaint to its insurance company for defense and coverage. The insurance company assigned this matter to the law firm of Lewis Brisbois. Lewis Brisbois filed a response on behalf of the Association.

The parties participated in mediation regarding this matter on September 25, 2018; the mediation was unsuccessful. The parties executed an agreement stating the Association will take no enforcement action to collect fines owed as a result of the work performed at the Shaw's home for three (3) months.

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On January 14, 2019, the Shaws filed a complaint in the Second Judicial District Court, Case Number CV19-00120, alleging the following claims: 1) violation of NRS 116; 2) breach of contract; 3) contractual breach of the implied covenant of good faith and fair dealing; 4) tortious breach of the implied covenant of good faith and fair dealing; 5) constructive fraud; 6) breach of fiduciary duty; 7) slander of title; 8) injunctive relief; and 9) declaratory relief. An Answer was filed on behalf of the Association on February 19, 2019. The court scheduled trial for December 9, 2019.

The insurance carrier assigned the law firm of Lewis Brisbois Bisgaard and Smith LLC to defend the Association in the District Court matter in addition to the above NRED matter. A mediation was held on August 13, 2019. The parties negotiated terms of a possible settlement which are subject to the parties reaching a settlement of the lighting issue. A site inspection for the lighting occurred on August 19, 2019. The parties are currently working on scheduling a conference to discuss potential resolution for the lighting issue.

Except as stated herein, the undersigned knows of no other pending litigation of the Association, as of the date of the writing of this letter. You should contact the Community Manager to determine whether or not the Association is involved in any other litigation matters.

Very truly yours,

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP

  
MICHAEL T. SCHULMAN

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