

1 **0131**

2 \_\_\_\_\_  
(Name)

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(Mailing Address)

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(City, State, Zip Code)

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(Telephone Number)

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(E-mail Address)

8 Defendant, In Proper Person

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

12 \_\_\_\_\_,  
13 Plaintiff(s),  
14 vs.  
15 \_\_\_\_\_,  
16 Defendant(s).

Case No.: \_\_\_\_\_

Dept. No.: \_\_\_\_\_

17  
18 **DEFENDANT'S MOTION TO CANCEL NOTICE OF LIS PENDENS**

19 Date of Hearing: \_\_\_\_\_

Time of Hearing: \_\_\_\_\_

20 Pursuant to NRS 14.015, Defendant (*insert your name*) \_\_\_\_\_

21 \_\_\_\_\_, appearing in proper person, moves this Court for an order cancelling the Notice of  
22 Lis Pendens filed and recorded by Plaintiff relative to the real property at issue in this case. Defendant's  
23 motion is based upon and supported by the following memorandum, the exhibits attached hereto, the  
24 pleadings and papers on file, and any argument allowed by the Court at the hearing on this matter.

25 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

26  
27 By: (*Signature*) \_\_\_\_\_

(*Print Name*) \_\_\_\_\_

28 Defendant, In Proper Person

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**NOTICE OF HEARING**

PLEASE TAKE NOTICE that the undersigned will bring the above entitled DEFENDANT'S MOTION TO CANCEL NOTICE OF LIS PENDENS on for hearing before the above-entitled Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at the hour of \_\_\_\_\_ a.m./p.m., in Department \_\_\_\_\_ of said Court.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By: (Signature) \_\_\_\_\_  
(Print Name) \_\_\_\_\_  
Defendant, In Proper Person

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Based upon Plaintiff's inability to satisfy the statutory requirements of NRS 14.015(2) and (3), this Court should issue an order cancelling Plaintiff's Notice of Lis Pendens pursuant to NRS 14.015(5).

**II. STATEMENT OF FACTS**

Plaintiff filed its Complaint on (insert date Complaint was filed) \_\_\_\_\_, seeking to foreclose on the real property located at (insert complete address of real property at issue) \_\_\_\_\_ (the "Subject Property").

In conjunction with filing its Complaint, Plaintiff filed a Notice of Lis Pendens on (insert date Notice was filed) \_\_\_\_\_ relative to the Subject Property pursuant to NRS 14.010(1).

Plaintiff recorded the Notice of Lis Pendens with the Clark County Recorder on (insert date Notice was recorded) \_\_\_\_\_, as Instrument No. (insert Notice's County Recorder instrument number) \_\_\_\_\_.

Other facts relevant to this motion are as follows (state any other facts that support your argument in Section III below, providing specific details such as names, dates, etc.): \_\_\_\_\_

\_\_\_\_\_ (attach additional pages if necessary)

1 **III. ARGUMENT**

2 Under NRS 14.015(1), Defendant can obtain a hearing before the Court on an expedited basis to  
3 challenge Plaintiff’s Notice of Lis Pendens. At the hearing, Plaintiff must appear and, through affidavits  
4 and other evidence, establish to the Court’s satisfaction each of the following:

- 5 (a) The action is for the foreclosure of a mortgage upon the real property described  
6 in the notice or affects the title or possession of the real property described in the notice;  
7 (b) The action was not brought in bad faith or for an improper motive;  
8 (c) [Plaintiff] will be able to perform any conditions precedent to the relief sought in  
9 the action insofar as it affects the title or possession of the real property; and  
10 (d) [Plaintiff] would be injured by any transfer of an interest in the property before  
11 the action is concluded.

12 NRS 14.015(2).

13 Additionally, NRS 14.015(3) requires Plaintiff to establish at the hearing to the Court’s  
14 satisfaction:

- 15 (a) That [Plaintiff] is likely to prevail in the action; or  
16 (b) That [Plaintiff] has a fair chance of success on the merits in the action and the  
17 injury [resulting from transfer of the property] would be sufficiently serious that the  
18 hardship on [Plaintiff] in the event of a transfer would be greater than the hardship on the  
19 defendant resulting from the notice of pendency,  
20 and that if [Plaintiff] prevails [Plaintiff] will be entitled to relief affecting the title or  
21 possession of the real property.

22 NRS 14.015(3).

23 If Plaintiff fails to satisfy the requirements of NRS 14.015 at the hearing, the Court must issue an  
24 order cancelling the Notice of Lis Pendens and requiring Plaintiff to record the order of cancellation.

25 NRS 14.015(5). The Court's order must state that the cancellation has the same effect as an expungement  
26 of the original Notice of Lis Pendens. *Id.* If, on the other hand, Plaintiff satisfies NRS 14.015, Defendant  
27 can request to be allowed to post a bond to obtain the cancellation. NRS 14.015(6).

28 Upon information and belief, Plaintiff will be unable to satisfy the requirements of NRS  
14.015(2) and (3), including but not limited to the following *(check each of the following that you believe apply to your  
case and provide any relevant facts and argument that support your position):*

- Plaintiff will be unable to establish that this action is for foreclosure of a mortgage upon the  
Subject Property or affects the title or possession of the Subject Property as required by NRS  
14.015(2)(a) based upon the following: \_\_\_\_\_

\_\_\_\_\_  
*(attach additional pages if necessary)*

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Plaintiff will be unable to establish that this action is not brought in bad faith or for an improper motive as required by NRS 14.015(2)(b) based upon the following: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
*(attach additional pages if necessary)*

Plaintiff will be unable to establish that it will be able to perform any conditions precedent to the relief sought insofar as it affects the title or possession of the Subject Property as required by NRS 14.015(2)(c) based upon the following: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
*(attach additional pages if necessary)*

Plaintiff will be unable to establish that it would be injured by any transfer of an interest in the Subject Property before this action is concluded as required by NRS 14.015(2)(d) based upon the following: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
*(attach additional pages if necessary)*

Plaintiff will be unable to establish that it is likely to prevail in this action as required by NRS 14.015(3)(a) based upon the following: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*(attach additional pages if necessary)*

Plaintiff will be unable to establish that (1) it has a fair chance of success on the merits *and* (2) the injury resulting from transfer of the Subject Property would be sufficiently serious that the hardship on Plaintiff would be greater than the hardship on Defendant resulting from the Notice of Lis Pendens as required by NRS 14.015(3)(b) based upon the following: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*(attach additional pages if necessary)*

1  Plaintiff will be unable to establish that if it prevails it will be entitled to relief affecting the title  
2 or possession of the Subject Property as required by NRS 14.015(3) based upon the following:  
3

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_ (attach additional pages if necessary)

8 **IV. CONCLUSION**

9 Based upon the foregoing, Defendant requests that the Court grant this motion and issue an order  
10 cancelling Plaintiff's Notice of Lis Pendens. A proposed order for the Court's consideration is attached  
11 hereto.

12 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

13 Submitted by:

14 *(Signature)* \_\_\_\_\_

15 *(Name)* \_\_\_\_\_

16 *(Mailing Address)* \_\_\_\_\_

17 *(City, State, Zip Code)* \_\_\_\_\_

18 *(Telephone Number)* \_\_\_\_\_

19 *(Fax Number)* \_\_\_\_\_

20 *(E-mail Address)* \_\_\_\_\_

21 Defendant, In Proper Person  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I served a true and correct copy of the foregoing **MOTION TO CANCEL NOTICE OF LIS PENDENS**, pursuant to NRCP 5(b), by depositing for mailing in the United States mail, with postage fully prepaid, an envelope containing the above-identified document at Las Vegas, Nevada, addressed to the following:

*(Insert name and address of Plaintiff's attorney:)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(Insert name and address of attorney for any other party that has appeared in case:)*

\_\_\_\_\_  
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\_\_\_\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By: *(Signature)* \_\_\_\_\_  
*(Print Name)* \_\_\_\_\_

1 **ORDR**

2 \_\_\_\_\_  
(Name)

3 \_\_\_\_\_  
(Mailing Address)

4 \_\_\_\_\_  
(City, State, Zip Code)

5 \_\_\_\_\_  
(Telephone Number)

6 \_\_\_\_\_  
(Fax Number)

7 \_\_\_\_\_  
(E-mail Address)

8 Defendant, In Proper Person

9 **EIGHTH JUDICIAL DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

11  
12 \_\_\_\_\_,  
13 Plaintiff(s),  
14 vs.  
15 \_\_\_\_\_,  
16 Defendant(s).  
17

Case No.: \_\_\_\_\_

Dept. No.: \_\_\_\_\_

18 **[PROPOSED]**

19 **ORDER GRANTING DEFENDANT'S MOTION TO CANCEL NOTICE OF LIS PENDENS**

20 WHEREAS, Defendant's Motion to Cancel Notice of Lis Pendens came on for hearing before this  
21 Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, with Defendant appearing in  
22 proper person and Plaintiff appearing through counsel of record, and whereas the Court has reviewed  
23 Defendant's motion and the other pleadings and papers on file and has heard the oral argument presented  
24 at the hearing, and for good cause appearing,

25 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED**

26 1 That Defendant's Motion to Cancel Notice of Lis Pendens is GRANTED in full; and

27 2. That the Notice of Lis Pendens recorded with the Clark County Recorder on the \_\_\_\_\_ day  
28 of \_\_\_\_\_, 20\_\_\_\_, as Instrument No. \_\_\_\_\_,

1 shall be, and hereby is, cancelled pursuant to NRS 14.015; and

2 3. That Plaintiff shall immediately cause a copy of this Order to be recorded with the Clark  
3 County Recorder and shall file a copy of the duly recorded Order with the Court and serve a copy on all  
4 parties; and

5 4. That this cancellation of the Notice of Lis Pendens has the same effect as an expungement of  
6 the original Notice of Lis Pendens pursuant to NRS 14.015(5).

7 IT IS SO ORDERED.

8 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

9  
10 \_\_\_\_\_  
11 DISTRICT COURT JUDGE

12 Submitted by:

13  
14 *(Signature)* \_\_\_\_\_

15 \_\_\_\_\_  
16 *(Name)*

17 \_\_\_\_\_  
18 *(Mailing Address)*

19 \_\_\_\_\_  
20 *(City, State, Zip Code)*

21 \_\_\_\_\_  
22 *(Telephone Number)*

23 \_\_\_\_\_  
24 *(Fax Number)*

25 \_\_\_\_\_  
26 *(E-mail Address)*

27 Defendant, In Proper Person  
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