

ParkWest Homes LLC v. Barnson et al.:
Whopper or Nothingburger?

I. Introduction & Factual Background

- A. Facts of Case leading to Initial Action—Complaint for foreclosure of a mechanics’ lien claim by ParkWest Homes, LLC (“ParkWest”) against Julie Barnson (homeowner) and Mortgage Electronic Registration Systems, Inc. (“MERS”, as nominee for beneficiary under deed of trust)
- B. Initial Appeal to Idaho Supreme Court—appeal of district court’s grant of summary judgment in favor of MERS challenging validity of ParkWest’s mechanics’ lien, *ParkWest Homes LLC v. Barnson et al.*, 149 Idaho 603, 238 P.3d 203 (2010) (“*ParkWest I*”)
- C. Events During Appeal and Following *ParkWest I*
 - █ Settlement with Defendant Barnson
 - █ Transfer to Residential Funding Real Estate Holdings, LLC (“Residential”) through Trustee’s sale
 - █ Dismissal of MERS and intervention of Residential
 - █ Motion for and grant of summary judgment in favor of Residential
- D. Second Appeal by ParkWest, *ParkWest Homes, LLC v. Barnson et al.*, 154 Idaho 678, 302 P.3d 18 (2013) (“*ParkWest II*”)

II. Discussion of *ParkWest II*

- A. Issues on Appeal
 - █ Scope of “law of the case” doctrine; whether doctrine barred Residential’s motion for summary judgment
 - █ Whether trustee under deed of trust must be named within the period of time required by statute to give the lien effect against subsequent holders of legal title
 - █ Application of doctrine of constructive notice
- B. Discussion of Court’s Holdings
 - █ “Law of the case” did not preclude Residential’s arguments on summary judgment
 - █ Purchaser at trustee’s sale takes title free and clear of mechanics’ lien where lienor fails to name trustee under deed of trust in Complaint for foreclosure of mechanics’ lien within statutory time period
 - █ Doctrine of constructive notice did not affect result in favor of Residential

III. Fallout from *ParkWest II* Decision

- A. Petition for Rehearing and Application of Idaho Branch of Associated General Contractors of America to Appear *amicus curiae*
- B. Potential Legal Impacts—definition and duties of trustees under deeds of trust, respective interests held by trustee and grantor, and nature of title conveyed by trustee at foreclosure sale
- C. Practical Impacts of *ParkWest II*—discussion of “best practices” in providing notice, potential title claims and procedures under litigation guarantees, potential ramifications for junior encumbrances and development of property