

Exhibit A

Exhibit A

IN THE SUPREME COURT OF THE STATE OF NEVADA

Saticoy Bay LLC Series 9641)	No. 69419
Christine View)	
v.)	VERIFIED APPLICATION FOR
)	ASSOCIATION OF COUNSEL UNDER
Federal National Mortgage)	<u>NEVADA SUPREME COURT RULE 42</u>
Association)	
_____)	

_____, Petitioner, respectfully represents:
First Middle Name Last

1. Petitioner resides at _____
Street Address

_____, _____, _____, _____
City County State Zip Code

(301) _____
Telephone

2. Petitioner is an attorney at law and a member of the law firm of: Arnold & Porter Kaye
Scholer

with offices at _____
Street Address

_____, _____, _____, _____
City County State Zip Code

(202) _____, _____
Telephone Email

3. Petitioner has been retained personally or as a member of the above named law firm by _____
The Federal Housing Finance Agency to provide legal representation in
connection with the above-entitled matter now pending before the above referenced court.

4. Since December of 1998, petitioner has been, and presently is, a member of good
standing of the bar of the highest court of the State of District of Columbia where
petitioner regularly practices law.

5. Petitioner was admitted to practice before the following United States District Courts, United
States Circuit Courts of Appeal, the Supreme Court of the United States, and/or courts of other
states on the dates indicated for each, and is presently a member in good standing of the bars of
said Courts: DATE

ADMITTED

<u>Virginia State Bar</u>	<u>10/9/1997</u>
<u>District of Columbia Court of Appeals</u>	<u>12/7/1998</u>
_____	_____
_____	_____

6. Is Petitioner currently suspended or disbarred in any court? You must answer yes or no. If
yes, give particulars; e.g., court, jurisdiction, date: No

7. Is Petitioner currently subject to any disciplinary proceedings by any organization with
authority at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline
authority, date, status: No

8. Has Petitioner ever received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

9. Has Petitioner ever had any certificate or privilege to appear and practice before any regulatory administrative body suspended or revoked? You must answer yes or no. If yes, give particulars, e.g. date, administrative body, date of suspension or reinstatement: No

10. Has Petitioner, either by resignation, withdrawal, or otherwise, ever terminated or attempted to terminate Petitioner's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings? You must answer yes or no. If yes, give particulars: _____

No

11. Petitioner has filed the following application(s) to appear as counsel under Nevada Supreme Court Rule 42 during the past three (3) years in the following matters, if none, indicate so: *(do not include Federal Pro Hacs)*

<u>Date of Application</u>	<u>Cause</u>	<u>Title of Court Administrative Body or Arbitrator</u>	<u>Was Application Granted or Denied?</u>
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See Attached

(If necessary, please attach a statement of additional applications)

12. Nevada Counsel of Record for Petition in this matter is:

(must be the same as the signature on the Nevada Counsel consent page)

Leslie	Bryan	Hart	4932
First Name	Middle Name	Last Name	NV Bar #

who has offices at Fennemore Craig, P.C.
Firm Name/Company

300 E. Second Street, Suite 1510	Reno	Washoe
Street Address	City	County

89501	(775)	788-2228
Zip Code	Phone Number	

13. The following accurately represents the names and addresses of each party in this matter, WHETHER OR NOT REPRESENTED BY COUNSEL, and the names and addresses of each counsel of record who appeared for said parties: (You may attach as an Exhibit if necessary.)

NAME

MAILING ADDRESS

See Attached

14. Petitioner agrees to comply with the provisions of Nevada Supreme Court Rule 42(3) and (13) and Petitioner consents to the jurisdiction of the courts and disciplinary boards of the State of Nevada in accordance with provisions as set forth in SCR 42(3) and (13). Petitioner respectfully requests that Petitioner be admitted to practice in the above-entitled court FOR THE PURPOSES OF THIS MATTER ONLY.

15. Petitioner has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

I, Michael A.F. Johnson, do hereby swear/affirm under penalty of perjury that the assertions

Print Petitioner Name

of this application and the following statements are true:

- 1) That I am the Petitioner in the above entitled matter.
- 2) That I have read Supreme Court Rule (SCR) 42 and meet all requirements contained therein, including, without limitation, the requirements set forth in SCR 42(2), as follows:

- (A) I am not a member of the State Bar of Nevada;
- (B) I am not a resident of the State of Nevada;
- (C) I am not regularly employed as a lawyer in the State of Nevada;
- (D) I am not engaged in substantial business, professional, or other activities in the State of Nevada;
- (E) I am a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and
- (F) I have associated a lawyer who is an active member in good standing of the State

Bar of Nevada as counsel of record in this action or proceeding.

- 2) That I have read the foregoing application and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to the matter I believe them to be true.

That I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; that I understand and shall comply with the standards of professional conduct required by members of the State Bar of Nevada; and that I am subject to the disciplinary jurisdiction to the State Bar of Nevada with respect to any of my

actions occurring in the course of such appearance.

DATED this 2nd day of October, 20 17

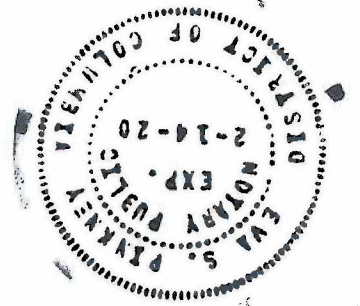
[Signature]
Petitioner/Affiant (blue ink)

STATE OF District of Columbia)
) ss
COUNTY OF Washington)

Subscribed and sworn to before me

this 2 day of October, 20 17

Eva S. Pinkney
Notary Public



EVA S. PINKNEY
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 14, 2020

DESIGNATION, CERTIFICATION AND CONSENT OF NEVADA COUNSEL

SCR 42(14) Responsibilities of Nevada attorney of record.

(a) The Nevada attorney of record shall be responsible for and actively participate in the representation of a client in any proceeding that is subject to this rule.

(b) The Nevada attorney of record shall be present at all motions, pre-trials, or any matters in open court unless otherwise ordered by the court.

(c) The Nevada attorney of record shall be responsible to the court, arbitrator, mediator, or administrative agency or governmental body for the administration of any proceeding that is subject to this rule and for compliance with all state and local rules of practice. It is the responsibility of Nevada counsel to ensure that the proceeding is tried and managed in accordance with all applicable Nevada procedural and ethical rules.

I Leslie Bryan Hart hereby agree to associate with Petitioner referenced hereinabove

Print Nevada Counsel Name

and further agree to perform all of the duties and responsibilities as required by Nevada Supreme Court Rule 42.

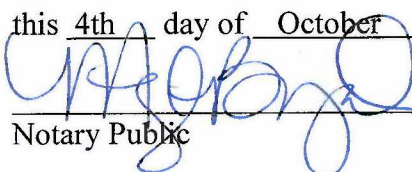
DATED this 4th day of October, 2017

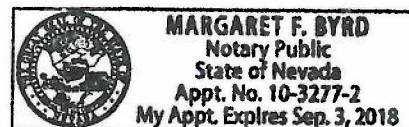


Nevada Counsel of Record (blue ink)

STATE OF NEVADA)
) ss
COUNTY OF WASHOE)

Subscribed and sworn to before me

this 4th day of October, 2017

Notary Public



Michael A.F. Johnson Verified Application for Association of Counsel Under
Nevada Supreme Court Rule 42
Nevada Supreme Court Case No. 69419
SUPPLEMENT TO NUMBER 11
PRIOR APPLICATIONS TO APPEAR AS COUNSEL UNDER
NEVADA SUPREME COURT RULE 42

Date of Appl.	Cause	Title of Court Administrative Body or Arbitrator	Was Application Granted or Denied?
1/1/16	Bank of America v. SFR Investments, Case No. 70060	Supreme Court of the State of Nevada	Granted
6/29/16	Nationstar v. SFR Investments Pool 1, Case No. 69400	Supreme Court of the State of Nevada	Granted
11/1/16	K&P Homes v Christiana Trust Case No. 69966	Supreme Court of the State of Nevada	Granted
12/5/16	CitiMortgage v. SFR Investments, Pool 1 Case No. 70237	Supreme Court of the State of Nevada	Granted
12/5/16	JPMorgan Chase v. SFR Investments Pool 1 Case No. 70423	Supreme Court of the State of Nevada	Granted

Michael A.F. Johnson Verified Application for Association of Counsel Under
Nevada Supreme Court Rule 42
Nevada Supreme Court Case No. 69419
SUPPLEMENT TO NUMBER 13
NAMES AND ADDRESSES OF EACH PARTY IN THIS ACTION

Party

Counsel

Appellant

Saticoy Bay LLC Series 9641 Christine View

Michael F. Bohn
LAW OFFICES OF MICHAEL F. BOHN,
LTD.
376 E. Warm Springs Road, Suite 140
Las Vegas, NV 89119

Respondent

Federal National Mortgage Association

Michael R. Brooks
KOLESAR & LEATHAM, CHTD.
400 S. Rampart Blvd., Suite 400
Las Vegas, NV 89145

Robert L. Eisenberg
LEMONS, GRUNDY & EISENBERG
6005 Plumas Street, Suite 300
Reno, NV 89519

Jory C. Garabedian
ALDRIDGE PITE, LLP
520 S. 4th Street, Suite 360
Las Vegas, NV 89101

Laurel I. Handley
4375 Jutland Drive, Suite 200
San Diego, CA 92117
ALDRIDGE PITE, LLP

Amicus Curiae

Federal Housing Finance Agency

Leslie L. Bryan Hart
John D. Tennert
FENNEMORE CRAIG P.C./RENO
300 E. Second Street, Suite 1510
Reno, NV 89501

Howard N. Cayne
Michael A.F. Johnson
ARNOLD & PORTER KAYE SCHOLER, LLP
601 Massachusetts Avenue, NW
Washington, DC 20001

Exhibit B

Exhibit B



District of Columbia Court of Appeals
Committee on Admissions
430 F Street, N.W. — Room 123
Washington, D. C. 20001
202 / 879-2710

I, JULIO A. CASTILLO, Clerk of the District of Columbia Court of Appeals, do hereby certify that

MICHAEL A. JOHNSON

*was on **DECEMBER 7, 1998** duly qualified and admitted as an attorney and counselor entitled to practice before this Court and is, on the date indicated below, an active member in good standing of this Bar.*

*In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of this Court at the City of Washington, D.C., on **September 28, 2017**.*

JULIO A. CASTILLO
Clerk of the Court

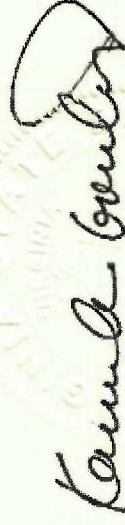
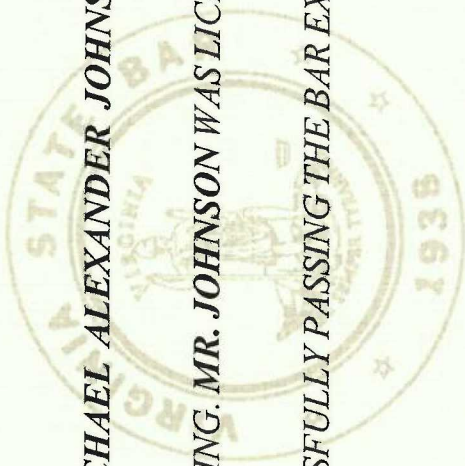
By: *Monette Lane*
Deputy Clerk

VIRGINIA STATE BAR

CERTIFICATE OF GOOD STANDING

THIS IS TO CERTIFY THAT **MICHAEL ALEXANDER JOHNSON** IS AN ACTIVE MEMBER OF THE
VIRGINIA STATE BAR IN GOOD STANDING. **MR. JOHNSON** WAS LICENSED TO PRACTICE LAW IN VIRGINIA
ON **OCTOBER 9, 1997**, AFTER SUCCESSFULLY PASSING THE BAR EXAMINATION GIVEN BY THE BOARD OF
BAR EXAMINERS.

Issued September 29, 2017



KAREN A. GOULD

EXECUTIVE DIRECTOR AND
CHIEF OPERATING OFFICER

Exhibit C

Exhibit C

1 STAT

2 IN THE SUPREME COURT OF THE STATE OF NEVADA

3 Case No. 69419

4
5 Saticoy Bay LLC Series 9641
6 Christine View

7 vs.

8 Federal National Mortgage
9 Association

10
11 STATE BAR OF NEVADA STATEMENT PURSUANT TO SUPREME COURT RULE
12 42 (3) (b)

13 THE STATE BAR OF NEVADA, in response to the application of
14 Petitioner, submits the following statement pursuant to SCR42(3):

15 SCR42(6)**Discretion.** The granting or denial of a motion to associate
16 counsel pursuant to this rule by the court is discretionary. The
17 court, arbitrator, mediator, or administrative or governmental
18 hearing officer may revoke the authority of the person permitted to
19 appear under this rule. Absent special circumstances, repeated
20 appearances by any person or firm of attorneys pursuant to this rule
21 shall be cause for denial of the motion to associate such person.

22 (a) **Limitation.** It shall be presumed, absent special
23 circumstances, and only upon showing of good cause, that
24 more than 5 appearances by any attorney granted under
25 this rule in a 3-year period is excessive use of this
26 rule.

27 (b) **Burden on applicant.** The applicant shall have the
28 burden to establish special circumstances and good cause
for an appearance in excess of the limitation set forth
in subsection 6(a) of this rule. The applicant shall set
forth the special circumstances and good cause in an
affidavit attached to the original verified application.

1. DATE OF APPLICATION: October 5, 2017

2. APPLYING ATTORNEY: Michael Alexander Johnson, Esq.

3. FIRM NAME AND ADDRESS: Arnold & Porter Kaye Scholer, 601
Massachusetts Avenue, NW, Washington, DC 20001

1 4. NEVADA COUNSEL OF RECORD: Leslie B Hart, Esq., Fennemore Craig,
2 P.C., 300 E Second Street, Suite 1510, Reno, NV 89501

3 5. In addition to the present application, petitioner made the
4 following previous applications within the last three years:

5 6/23/2016 ADMISSION GRANTED
6 9/26/2016 ADMISSION GRANTED
7 9/26/2016 ADMISSION GRANTED
8 11/16/2016 ADMISSION GRANTED
9 11/16/2016 ADMISSION GRANTED

10 DATED this October 10, 2017

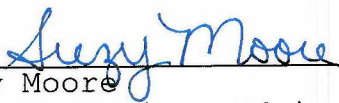
11 
12 Suzy Moore
13 Member Services Admin.
14 Pro Hac Vice Processor
15 STATE BAR OF NEVADA
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Exhibit D

Exhibit D

STATE OF District of Columbia)
) SS:
COUNTY OF Washington)

I, Michael A.F. Johnson, being first duly sworn, do hereby swear under penalty of the laws of the State of Nevada as follows:

1. I am over the age of 21 years. The statements contained herein are true and correct to the best of my information and belief.

2. I have personal knowledge of each of the matters stated herein and could testify competently to the same under oath in a court of law if called upon to do so.

3. I am an attorney licensed by the State of Virginia and the District of Columbia; my licenses are active and in good standing. I am also a member in good standing of the bars of numerous state and federal courts around the country. Pursuant to Nevada Supreme Court Rule 42(6)(b), I submit this affidavit in support of my Verified Application for Association of Counsel Under Supreme Court Rule 42.

4. Supreme Court Rule 42(6)(a) provides, as a general rule, "that absent special circumstances, and only upon a showing of good cause, that more than 5 appearances by any attorney granted under this Rule in a 3-year period is excessive use of this rule." Supreme Court Rule 42(6)(b) provides that the applicant "shall have the burden to establish special circumstances and good cause for an appearance in excess of the limitation set forth in subsection 6(a) of this rule." The applicant shall set forth the special circumstances and good cause in an affidavit attached to the original verified application."

5. I am a partner in the law firm of Arnold & Porter Kaye Scholer LLP, an international law firm acting as counsel for the Federal Housing Finance Agency ("FHFA").

6. FHFA is an independent federal agency responsible for the oversight of vital components of the national secondary mortgage market, including the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") (together with Fannie Mae, "the Enterprises").

7. On September 6, 2008, pursuant to the Housing and Economic Recovery Act of 2008 ("HERA"), Pub. L. No. 110-289, 122 Stat. 2654, FHFA's Director placed the Enterprises into conservatorships. *See* U.S.C. § 4617(a).

8. In its capacity as Conservator, FHFA succeeded to “all rights, titles, powers, and privileges” of the Enterprises and their respective stockholders, boards of directors and officers. *See* 12 U.S.C. § 4617(b)(2)(A)(i). Accordingly, the Conservator is authorized to participate, at its discretion, in litigation involving the Enterprises in a manner consistent with the Conservator’s duties.

9. There are numerous cases pending in this Court, in the District Courts of the State of Nevada, in the United States District Court for the District of Nevada, and in the United States Court of Appeals for the Ninth Circuit in which the Enterprises and other parties are litigating the interpretation and application of NRS 116.3116(2) (“the Chapter 116 Cases”). The relevant Nevada statute allows a HOA a limited super-priority lien security payment for past due HOA fees and permits properly conducted foreclosures and public auctions to extinguish all other deed-of-trust interests. *See SFR Invs. Pool I, LLC v. U.S. Bank, NA.*, 334 P.3d 408 (Nev. 2014). However, as the Ninth Circuit recently concluded, a federal statute precludes that result when the owner of the deed of trust is an Enterprise in FHFA conservatorship. *See Berezovsky v. Moniz*, 869 F.3d 923 (9th Cir. 2017) (applying 12 U.S.C. § 4617(j)(3)); *Elmer v. JPMorgan Chase Co.*, No. 15-17407, 2017 WL 3822061 (9th Cir. Aug. 31, 2017) (unpublished) (same). FHFA is a party to dozens of cases pending in the District of Nevada and in the Ninth Circuit in which this issue, often referred to as the Federal Foreclosure Bar, is being litigated.

10. FHFA has retained Arnold & Porter Kaye Scholer LLP to coordinate its legal strategy in the Chapter 116 Cases and has retained Leslie Bryan Hart and the law firm Fennemore Craig, P.C. to assist as local counsel. FHFA has directed me to inform the Court that it wishes me to be its representative and advocate at oral argument in this appeal, should the Court permit FHFA to participate.

11. In addition to the dozens of federal cases in which FHFA is a party, FHFA has submitted amicus curiae briefs in 14 Chapter 116 Cases pending in this Court. A list of these cases is attached hereto as Exhibit A. Under the Nevada Rules of Appellate Procedure, FHFA is permitted, as an agency of the United States, to file these amicus briefs without consent of the parties or leave of court. Nev. R. App. P. 29(a). Because FHFA is entitled to participate as

amicus by right, I respectfully submit that its choice of counsel to represent it in that capacity should carry some added weight, and that this factor should weigh in favor of a finding of “special circumstances” and “good cause” under Supreme Court Rule 42(6)(a).

12. I have submitted five applications for *pro hac vice* admission in this Court, each of which has been granted. Those applications were submitted in the following cases:

Date of Appl.	Cause	Status of Case
1/1/16	Bank of America v. SFR Investments, Case No. 70060	12/09/16: Filed Order Submitting Appeal for Decision Without Oral Argument.
6/29/16	Nationstar v. SFR Investments Pool 1, Case No. 69400	07-17-17 Remittitur Issued/Case Closed
11/1/16	K&P Homes v Christiana Trust, Case No. 69966	08-21-17 Notice in Lieu of Remittitur Issued/Case Closed.
12/5/16	CitiMortgage v. SFR Investments, Pool 1, Case No. 70237	01-12-17 Filed Order Submitting Appeal for Decision Without Oral Argument.
12/5/16	JPMorgan Chase v. SFR Investments Pool 1, Case No. 70423	2/8/17 Filed Order Submitting For Decision Without Oral Argument.

13. On March 7, 2017, this Court, sitting *en banc*, held oral argument in one of those cases, *Nationstar Mortgage, LLC v. SFR Investments Pool, I, LLC*, Case number 69400. The Court permitted FHFA to participate, and I argued on behalf of FHFA. Although I have been admitted *pro hac vice* in this Court on five occasions in Chapter 116 Cases, I have participated in oral argument only once, in the *Nationstar* case. In *Nationstar*, this Court unanimously concluded that the servicer of a loan owned by an Enterprise has standing to argue that the Federal Foreclosure Bar preempts NRS 116.3116, and that neither Fannie Mae nor Freddie Mac must be joined as a party. 133 Nev. Adv. Op. 34 (June 22, 2017). In my view, my participation at oral argument, along with Robert Eisenberg of the law firm Lemons, Grundy & Eisenberg, who argued on behalf of Nationstar, aided the Court in resolving the case.

14. FHFA has moved for permission to participate in the oral argument of this appeal. Should the Court grant that motion, granting my application to appear *pro hac vice* and argue on FHFA’s behalf will serve judicial efficiency and save party resources.

15. I have served as FHFA's lead counsel in the Chapter 116 cases for more than two years; over that time I have presented nearly all oral argument on FHFA's behalf in those cases. As a result, it would require far less time and resources for me to prepare for and present argument on FHFA's behalf than for any of my colleagues on the Arnold & Porter Kaye Scholer FHFA team, including Howard Cayne (who has been admitted *pro hac vice* in this case), to do so.

16. I also believe that my experience arguing Chapter 116 cases for FHFA would allow me to more efficiently offer a concise and focused presentation that would assist the Court. Of particular significance to this application, I argued the *Berezovsky* and *Elmer* cases, cases of first impression in the Ninth Circuit that involved many of the same issues presented here. My experience arguing *Nationstar*, *Berezovsky*, and *Elmer* will allow me to provide the Court with important background and perspective as the Court considers an issue that will significantly impact dozens if not hundreds of cases currently pending in the courts of this state.

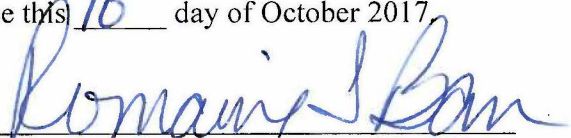
17. Finally, while FHFA fully respects this Court's prerogative to set rules regarding *pro hac vice* practice, FHFA's considered judgment that I advocate on its behalf in this matter should not be lightly disregarded.

18. Based on the foregoing, I respectfully submit that special circumstances and good cause exist to permit my appearance in this case.

DATED: This 10th day of October, 2017.


Michael A.F. Johnson

SUBSCRIBED and SWORN to before
me this 10 day of October 2017.


Notary Public

ROMAINE L. BARR
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires August 14, 2018

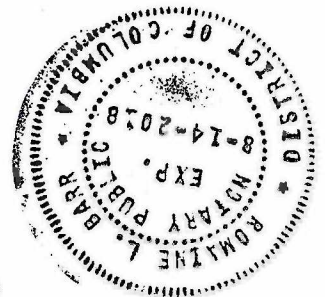


Exhibit A

Exhibit A

FHFA AMICUS BRIEFS

Date of Filing	Cause	Case No.
4/21/17	A&I LLC Series 3 v. Federal National Mortgage Association, et al.	71124
8/22/16	Bank of America v. SFR Investments Pool I	70060
9/29/16	CitiMortgage v. SFR Investments Pool I	70237
8/14/17	Federal National Mortgage Association, et al. v. Home International Properties, LLC, et al.	72933
8/28/17	Fort Apache Homes v. JPMorgan Chase Bank	72257
4/19/17	Green Tree Servicing v. SFR Investments Pool I	71248
10/13/16	JPMorgan Chase Bank v. SFR Investments Pool I	70423
4/26/17	JPMorgan Chase Bank v. SFR Investments Pool I	71822
2/14/17	JPMorgan Chase Bank v. 3416 Brayton Mist Trust	71435
7/15/16	K&P Homes v. Christiana Trust	69966
7/21/17	Nationstar Mortgage v. Charles E. Raab, Jr.	72347
6/29/16	Nationstar Mortgage v. SFR Investments Pool I	69400
6/23/16	Saticoy Bay LLC Series 9641 Christine View v. Federal National Mortgage Association	69419
9/13/17	SFR Investments Pool I v. Green Tree Servicing, LLC	71176

1 Leslie Bryan Hart, Esq., (SBN 4932)
2 John D. Tennert, Esq. (SBN 11728)
3 FENNEMORE CRAIG, P.C.
4 300 E. Second St., Suite 1510
5 Reno, Nevada 89501
6 (Tel) 775-788-2228 (Fax) 775-788-2229
7 lhart@fclaw.com; jtennert@fclaw.com

8 Howard N. Cayne, Esq. (Admitted *Pro Hac Vice*)
9 Michael A.F. Johnson, Esq. (*Pro Hac Vice* Submitted)
10 ARNOLD & PORTER KAYE SCHOLER LLP
11 601 Massachusetts Avenue, NW
12 Washington, DC 20001
13 (Tel) 202-942-5000 (Fax) 202-942-5999
14 Howard.cayne@apks.com
15 Michael.johnson@apks.com

16 *Attorneys for Amicus Curiae Federal Housing Finance Agency*

Electronically Filed
Oct 17 2017 04:04 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

11 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

12 SATICOY BAY LLC SERIES 9641
13 CHRISTINE VIEW,

14 Appellant,

15 vs.

16 FEDERAL NATIONAL MORTGAGE
17 ASSOCIATION,

18 Respondent.

CASE NO. 69419

18 **MOTION TO ASSOCIATE COUNSEL**

19 Amicus Curiae Federal Housing Finance Agency (“FHFA”) hereby moves the Court for
20 an order permitting Michael A.F. Johnson, Esq., to practice in Nevada pursuant to Nevada
21 Supreme Court Rule 42 (SCR 42). This motion is supported by the attached “Verified
22 Application for Association of Counsel” (Exhibit A), “Certificates of Good Standing” from the
23 Virginia State Bar and the District of Columbia Court of Appeals (Exhibit B), the State Bar of
24 Nevada Statement (Exhibit C) and the Affidavit of Michael A.F. Johnson (Exhibit D).

25
26 Supreme Court Rule 42(6)(a) provides, as a general rule, “that absent special
27 circumstances, and only upon a showing of good cause, that more than 5 appearances by any
28

1 attorney granted under this Rule in a 3-year period is excessive use of this rule.” Supreme Court
2 Rule 42(6)(b) provides that the applicant “shall have the burden to establish special
3 circumstances and good cause for an appearance in excess of the limitation set forth in
4 subsection 6(a) of this rule.” Attached as Exhibit D is an affidavit of Michael A.F. Johnson, in
5 which Mr. Johnson explains the special circumstances and good cause supporting his *pro hac*
6 *vice* admission in this case.
7

8 As explained in the affidavit, Mr. Johnson is a partner in the law firm of Arnold & Porter
9 Kaye Scholer LLP, an international law firm acting as counsel for the Federal Housing Finance
10 Agency (“FHFA”). FHFA is an independent federal agency responsible for the oversight of vital
11 components of the national secondary mortgage market, including the Federal National
12 Mortgage Association (“Fannie Mae”) and the Federal Home Loan Mortgage Corporation
13 (“Freddie Mac”) (together with Fannie Mae, “the Enterprises”). On September 6, 2008, pursuant
14 to the Housing and Economic Recovery Act of 2008 (“HERA”), Pub. L. No. 110-289, 122 Stat.
15 2654, FHFA’s Director placed the Enterprises into conservatorships. *See* U.S.C. § 4617(a). In
16 its capacity as Conservator, FHFA succeeded to “all rights, titles, powers, and privileges” of the
17 Enterprises and their respective stockholders, boards of directors and officers. *See* 12 U.S.C.
18 § 4617(b)(2)(A)(i). Accordingly, the Conservator is authorized to participate, at its discretion, in
19 litigation involving the Enterprises in a manner consistent with the Conservator’s duties.
20 Exhibit D.

21 There are numerous cases pending in this Court, in the District Courts of the State of
22 Nevada, in the United States District Court for the District of Nevada, and in the United States
23 Court of Appeals for the Ninth Circuit in which the Enterprises and other parties are litigating
24 the interpretation and application of NRS 116.3116(2) (“the Chapter 116 Cases”). The relevant
25 Nevada statute allows a HOA a limited super-priority lien security payment for past due HOA
26 fees and permits properly conducted foreclosures and public auctions to extinguish all other
27 deed-of-trust interests. *See SFR Invs. Pool I, LLC v. U.S. Bank, NA.*, 334 P.3d 408 (Nev. 2014).
28 However, as the Ninth Circuit recently concluded, a federal statute precludes that result when

the owner of the deed of trust is an Enterprise in FHFA conservatorship. *See Berezovsky v. Moniz*, 869 F.3d 923 (9th Cir. 2017) (applying 12 U.S.C. § 4617(j)(3)); *Elmer v. JPMorgan Chase Co.*, No. 15-17407, 2017 WL 3822061 (9th Cir. Aug. 31, 2017) (unpublished) (same). FHFA is a party to dozens of cases pending in the District of Nevada and in the Ninth Circuit in which this issue, often referred to as the Federal Foreclosure Bar, is being litigated. Exhibit D.

In addition to the dozens of federal cases in which FHFA is a party, FHFA has submitted amicus curiae briefs in 14¹ Chapter 116 Cases pending in this Court. A list of these cases is attached to Mr. Johnson's affidavit as Exhibit A. Under the Nevada Rules of Appellate Procedure, FHFA is permitted, as an agency of the United States, to file these amicus briefs without consent of the parties or leave of court. Nev. R. App. P. 29(a). Because FHFA is entitled to participate as amicus by right, FHFA respectfully submits that its choice of counsel to represent it in that capacity should carry some added weight, and that this factor should weigh in favor of a finding of "special circumstances" and "good cause" under Supreme Court Rule 42(6)(a). Exhibit D.

Mr. Johnson has submitted five applications for *pro hac vice* admission in this Court, each of which has been granted. Those applications were submitted in the following cases:

Date of Appl.	Cause	Status of Case
1/1/16	Bank of America v. SFR Investments, Case No. 70060	12/09/16: Filed Order Submitting Appeal for Decision Without Oral Argument.
6/29/16	Nationstar v. SFR Investments Pool 1, Case No. 69400	07-17-17 Remittitur Issued/Case Closed
11/1/16	K&P Homes v Christiana Trust, Case No. 69966	08-21-17 Notice in Lieu of Remittitur Issued/Case Closed.
12/5/16	CitiMortgage v. SFR Investments, Pool 1, Case No. 70237	01-12-17 Filed Order Submitting Appeal for Decision Without Oral Argument.
12/5/16	JPMorgan Chase v. SFR Investments Pool 1, Case No. 70423	2/8/17 Filed Order Submitting For Decision Without Oral Argument.

On March 7, 2017, this Court, sitting *en banc*, held oral argument in one of those cases, *Nationstar Mortgage, LLC v. SFR Investments Pool, I, LLC*, Case number 69400. Although Mr.

¹ Since the execution of Michael A.F. Johnson's Affidavit, FHFA has filed an additional Amicus Curiae brief in *JPMorgan Chase v. Saticoy Bay LLC Series 1013 Adobe Flat, No 72823*, Case No. 72823 on October 6, 2017.

1 Johnson has been admitted *pro hac vice* in this Court on five occasions in Chapter 116 Cases, he
2 has participated in oral argument only once, in the *Nationstar* case. In *Nationstar*, this Court
3 unanimously concluded that the servicer of a loan owned by an Enterprise has standing to argue
4 that the Federal Foreclosure Bar preempts NRS 116.3116, and that neither Fannie Mae nor
5 Freddie Mac must be joined as a party. 133 Nev. Adv. Op. 34 (June 22, 2017). Mr. Johnson's
6 participation at oral argument, along with Robert Eisenberg of the law firm Lemons, Grundy &
7 Eisenberg, who argued on behalf of Nationstar, aided the Court in resolving the case. Exhibit D.

8 Just as in the *Nationstar* case, the Court has granted FHFA's request to participate in oral
9 argument. See Order dated October 4, 2017. Granting Mr. Johnson's application to appear *pro*
10 *hac vice* and argue on FHFA's behalf will serve judicial efficiency and save party resources.
11 Exhibit D.

12 Mr. Johnson has served as FHFA's lead counsel in the Chapter 116 Cases for more than
13 two years; over that time he has presented nearly all oral argument on FHFA's behalf in those
14 cases. As a result, it would require far less time and resources for him to prepare for and present
15 argument on FHFA's behalf than for any of his colleagues on the Arnold & Porter Kaye Scholer
16 FHFA team, including Howard Cayne (who has been admitted *pro hac vice* in this case), to do
17 so. Exhibit D.

18 Mr. Johnson's experience arguing Chapter 116 Cases for FHFA would allow him to
19 more efficiently offer a concise and focused presentation that would assist the Court. Of
20 particular significance to this application, Mr. Johnson argued the *Berezovsky* and *Elmer* cases,
21 cases of first impression in the Ninth Circuit that involved many of the same issues presented
22 here. His experience arguing *Nationstar*, *Berezovsky*, and *Elmer* will allow him to provide the
23 Court with important background and perspective as the Court considers an issue that will
24 significantly impact dozens if not hundreds of cases currently pending in the courts of this state.
25 Exhibit D.

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1 Based on the foregoing, FHFA respectfully submits that special circumstances and good
2 cause exist to permit Mr. Johnson's *pro hac vice* admission in this case, and FHFA requests that
3 this Motion be granted.

4 DATED: This 17th day of October, 2017.

5 FENNEMORE CRAIG, P.C.

6 By: /s/ Leslie Bryan Hart
7 Leslie Bryan Hart, Esq. (SBN 4932)
8 John D. Tennert, Esq. (SBN 11728)
9 300 E. Second St., Suite 1510
10 Reno, Nevada 89501
11 Tel: 775-788-2228 Fax: 775-788-2229
12 lhart@fclaw.com; jtennert@fclaw.com

13 and

14 ARNOLD & PORTER KAYE SCHOLER LLP

15 Howard N. Cayne, Esq. (Admitted *PHV*)
16 Michael A.F. Johnson, Esq.*
17 *(*Pro Hac Vice* Submitted)
18 601 Massachusetts Avenue, NW
19 Washington, DC 20001
20 (Tel) 202-942-5000 (Fax) 202-942-5999
21 Howard.cayne@apks.com
22 Michael.johnson@apks.com

23 Attorneys for *Amicus Curiae* Federal Housing
24 Finance Agency
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Laurel Handley, Esq.
Jory Garabedian, Esq.
Aldridge Pite, LLP
520 South Fourth St., Suite 360
Las Vegas, Nevada 89101-6500
E-Mail: lhandley@aldridgepite.com; jgarabedian@aldridgepite.com
Attorneys for Respondent Federal National Mortgage Association

Michael F. Bohn, Esq.
Law Offices of Michael F. Bohn, Esq., Ltd.
376 East Warm Springs Road, Suite 140
Las Vegas, Nevada 89119-4262
E-Mail: mbohn@bohnlawfirm.com
Attorney for Appellant Saticoy Bay LLC Series 9641 Christine View

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