

IN THE SUPREME COURT OF NEVADA

JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION, a
national association,

Appellant,

v.

SFR INVESTMENTS POOL 1, LLC, a
Nevada limited liability company,

Respondent.

Supreme Court No. 71337

Electronically Filed
Feb 15 2017 03:18 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**MOTION TO EXTEND DEADLINE TO
FILE OPENING BRIEF AND APPENDIX**

Pursuant to NRAP 26(b)(1)(A) and 31(b)(3), appellant JPMorgan Chase Bank, N.A. (“Chase”) moves to extend the filing deadline for its opening brief and appendix. In support of this motion, Chase states as follows:

1. On October 11, 2016, the Court entered an *Order Removing Appeal from Settlement Program and Reinstating Briefing* which set a deadline of January 9, 2017 for Chase to file its opening brief and appendix.
2. Pursuant to a telephonic request by Chase on January 5, 2017, the Court extended the deadline to January 23, 2017.
3. Pursuant to Chase’s unopposed motion filed January 19, 2017, the Court further extended the deadline to February 22, 2017.

4. For the reasons explained herein, Chase requests a six-month extension of this deadline to August 22, 2017.

5. The issues presented by this appeal include, among other things, whether the notice provisions of NRS Chapter 116 violate the Due Process Clause of the Fourteenth Amendment.

6. In Bourne Valley Court Tr. v. Wells Fargo Bank, NA, 832 F.3d 1154 (9th Cir. 2016), the Ninth Circuit Court of Appeals held that a foreclosure sale under NRS Chapter 116 involves sufficient state action to implicate the Due Process Clause of the Fourteenth Amendment. The Ninth Circuit further held that the notice provisions of Chapter 116 violate due process by requiring purported junior lienholders to affirmatively request notice of a Chapter 116 sale.

7. In Saticoy Bay LLC v. Wells Fargo Home Mortg., No. 68630, 133 Nev. Adv. Rep. 5 (2017), this Court disagreed with Bourne Valley by holding that a foreclosure sale under NRS Chapter 116 does not involve sufficient state action to implicate the Due Process Clause of the Fourteenth Amendment. The Court did not decide whether the notice provisions of NRS Chapter 116 require purported junior lienholders to affirmatively request notice.

8. The non-prevailing parties in Bourne Valley and Saticoy Bay have indicated they will petition the United States Supreme Court for certiorari to resolve the split between the Ninth Circuit and this Court. See Application to

Extend the Time to File a Petition for a Writ of Certiorari, Bourne Valley Court Tr. v. Wells Fargo Bank, NA, No. 16A753 (Jan. 19, 2017); Motion to Stay Remittitur, Saticoy Bay (No. 68630).

9. A second issue raised by Chase's appeal is whether 12 U.S.C. § 4617(j)(3) bars a foreclosure sale under NRS Chapter 116 from extinguishing a deed of trust owned by the Federal Home Loan Mortgage Corporation without the consent of its conservator, the Federal Housing Finance Agency.

10. The Ninth Circuit has scheduled oral arguments on this issue for February 17, 2017. See Notice of Oral Argument, Elmer v. JP Morgan Chase Bank, N.A., No. 15-17407 (9th Cir. Dec. 7, 2016).

11. This Court has likewise scheduled oral arguments on the issue for March 7, 2017. See Notice of Oral Argument Setting, Nationstar Mortg., LLC v. SFR Invs. Pool 1, LLC, No. 69400 (Nev. Jan. 26, 2017).

12. The parties believe that a six-month extension of the deadline for Chase's opening brief and appendix will provide sufficient time for the United States Supreme Court to decide whether to grant certiorari in Bourne Valley and Saticoy Bay. Further, during the extension of time, the Ninth Circuit and this Court may provide direction on the issues raised in Elmer and Nationstar.

13. The parties believe that the requested six-month extension will help clarify the governing law and will potentially narrow the issues for the parties to litigate.

14. There are extraordinary and compelling circumstances for this request because the Court issued its opinion in Saticoy Bay and set oral argument in Nationstar after Chase's two prior requests.

15. Counsel for respondent SFR Investments Pool 1, LLC has reviewed this motion and does not oppose Chase's request.

Dated: February 15, 2017.

BALLARD SPAHR LLP

By: /s/ Matthew D. Lamb

Abran E. Vigil

Nevada Bar No. 7548

Matthew D. Lamb

Nevada Bar No. 12991

Holly Ann Priest

Nevada Bar No. 13226

100 North City Parkway, Suite 1750

Las Vegas, Nevada 89106

Attorneys for Appellant

CERTIFICATE OF SERVICE

I certify that on February 15, 2017, I filed the foregoing *Motion to Extend Deadline to File Opening Brief and Appendix*. The following participants will be served electronically:

Jacqueline A. Gilbert
KIM GILBERT EBRON
7625 Dean Martin Drive, Suite 110
Las Vegas, NV 89139

Counsel for Respondent

/s/ Sarah Walton
An employee of Ballard Spahr LLP