

# IN THE SUPREME COURT OF THE STATE OF NEVADA

## INDICATE FULL CAPTION:

JPMorgan Chase Bank, National Association,  
Appellant,  
vs.  
SFR Investments Pool 1, LLC,  
Respondent.

No. 71822

Electronically Filed  
Dec 27 2016 10:53 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
DOCKETING  
CIVIL APPEALS

## GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department 24  
County Clark Judge Jim Crockett  
District Ct. Case No. A-13-692202-C

**2. Attorney filing this docketing statement:**

Attorney Matthew D. Lamb Telephone (702) 471-7000  
Firm Ballard Spahr LLP  
Address 100 North City Parkway, Suite 1750  
Las Vegas, Nevada 89106

Client(s) Appellant JPMorgan Chase Bank, National Association ("Chase")

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondents(s):**

Attorney Jacqueline A. Gilbert Telephone (702) 485-3300  
Firm Kim Gilbert Ebron  
Address 7625 Dean Martin Drive, Suite 110  
Las Vegas, Nevada 89139

Client(s) Respondent SFR Investments Pool 1, LLC ("SFR")

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> Judgment after bench trial         | <input type="checkbox"/> Dismissal:                                     |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction                           |
| <input checked="" type="checkbox"/> Summary judgment        | <input type="checkbox"/> Failure to state a claim                       |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute                           |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify): _____                         |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:                                |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination     | <input type="checkbox"/> Other disposition (specify): _____             |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

This is a quiet title action arising from a foreclosure sale under NRS Chapter 116. The subject property is located at 2824 Begonia Court, Henderson, Nevada 89074 (the "Property"). SFR was the highest bidder at the foreclosure sale. Chase is the beneficiary of record and servicer of a deed of trust recorded against the Property. During the sale, Chase was servicing the loan associated with the Property on behalf of the Federal National Mortgage Association, the owner of the loan and deed of trust. Kyleen Bell was the record owner of the Property at the time of the sale. Chase brought claims against SFR for declaratory relief, quiet title, and unjust enrichment. Chase argues the deed of trust survived the sale for a variety of reasons. SFR brought counterclaims against Chase and Ms. Bell for declaratory relief and quiet title. SFR argues the sale extinguished the deed of trust and Ms. Bell's ownership interest in the Property. During discovery, the court granted SFR's motion for a protective order to limit Chase's Rule 30(b)(6) deposition of SFR on relevance grounds. After Ms. Bell was dismissed by stipulation, SFR moved for summary judgment against Chase on all remaining claims. The district court granted SFR's motion.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

See Exhibit 1.

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

See Exhibit 2.

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☐ N/A

☒ Yes

☐ No

If not, explain:

**12. Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☒ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☐ An issue of public policy

☒ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: Issues 1(a) and 1(b) identified in Chase's response to Question 9 raise questions under the United States and Nevada Constitutions. Issues 1(a), 1(b), and 1(c) are substantial issues of first impression. Issues 1(c), 1(e), and 3 require en banc consideration to maintain uniformity of the Court's decisions.

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This case is presumptively retained by the Nevada Supreme Court because it raises as principal issues questions of first impression involving the United States and Nevada Constitutions. NRAP 17(a)(13). It also raises as principal issues questions of statewide public importance. NRAP 17(a)(14).

**14. Trial.** If this action proceeded to trial, how many days did the trial last? \_\_\_\_\_

Was it a bench or jury trial? \_\_\_\_\_

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** Oct 26, 2016

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

**17. Date written notice of entry of judgment or order was served** Oct 26, 2016

Was service by:

☐ Delivery

☒ Mail/electronic/fax

**18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

**NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_\_, 245 P.3d 1190 (2010).**

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

(c) Date written notice of entry of order resolving tolling motion was served \_\_\_\_\_

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** Nov 22, 2016

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If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

**20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

NRAP 4(a)(1)

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**SUBSTANTIVE APPEALABILITY**

**21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

- |   |                                       |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205   |
| <input type="checkbox"/> NRAP 3A(b)(2)            | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3)            | <input type="checkbox"/> NRS 703.376  |
| <input type="checkbox"/> Other (specify) _____    |                                       |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

Ms. Bell was dismissed from the case in a stipulation and order filed August 6, 2014.

Therefore, the district court's October 26, 2016 order entering summary judgment in favor of SFR and against Chase is an appealable final judgment.



**22. List all parties involved in the action or consolidated actions in the district court:**

(a) Parties:

JPMorgan Chase Bank, National Association - Plaintiff/Counter-Defendant

SFR Investments Pool 1, LLC - Defendant/Counter-Claimaint

Kyleen Bell - Counter-Defendant

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

Kyleen Bell was dismissed in a stipulation and order filed August 6, 2014.

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

Chase's operative complaint filed March 18, 2016 includes claims against SFR for declaratory relief, quiet title, and unjust enrichment. SFR's counterclaim filed January 27, 2014 includes claims for declaratory relief and quiet title against Chase and Ms. Bell. SFR's claims against Ms. Bell were resolved by the August, 2014 stipulation and order. Chase's and SFR's claims against one another were resolved by the October 26, 2016 summary judgment order.

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☒ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

JPMorgan Chase Bank, Nat'l Ass'n  
Name of appellant

Matthew D. Lamb  
Name of counsel of record

\_\_\_\_\_  
Date

/s/ Matthew D. Lamb  
Signature of counsel of record

Washington, D.C.  
State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 27th day of December, 2016, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Diana Cline Ebron  
Jacqueline A. Gilbert  
Karen L. Hanks  
7625 Dean Martin Drive, Suite 110  
Las Vegas, NV 89139

Counsel for Respondent

Dated this 27th day of December, 2016

/s/ Matthew D. Lamb  
Signature

EXHIBIT 1

EXHIBIT 1

### Response to Question 9 – Issues on Appeal

1. Did the district court err by holding, at the summary judgment stage, that the HOA foreclosure sale extinguished the deed of trust owned by the Federal National Mortgage Association (“Fannie Mae”) and serviced by Chase?
  - a. Under the Housing and Economic Recovery Act of 2008 (“HERA”), could the foreclosure sale extinguish Fannie Mae’s deed of trust without the consent of its conservator, the Federal Housing Finance Agency (“FHFA”)?
  - b. Do the provisions of NRS Chapter 116 governing notice to purported junior lienholders satisfy the requirements of due process?
  - c. Does the holding of SFR Investments Pool 1, LLC v. U.S. Bank, N.A., 130 Nev. Adv. Rep. 75, 334 P.3d 408 (2014), apply retroactively to foreclosure sales conducted before September 18, 2014?
  - d. Did Ms. Bell’s multiple payments to the HOA satisfy the portion of the HOA lien, if any, that was entitled to a super-priority over the deed of trust?
  - e. Is there a genuine issue of fact as to the validity of the sale under Shadow Wood Homeowners Ass’n v. N.Y. Cmty. Bancorp. Inc., 132 Nev. Adv. Rep. 5, 366 P.3d 1105 (2016)?
  - f. Is there a genuine issue of fact as to whether the granting clause of the foreclosure deed conveys title to SFR, or whether the deed simply conveys the HOA’s lien interest to SFR?
2. Did the district court err by entering summary judgment for SFR on Chase’s alternative claim for unjust enrichment?
3. Did the district court abuse its discretion by granting SFR a protective order that prohibited Chase from conducting discovery related to the validity of the sale?

EXHIBIT 2

EXHIBIT 2

### **Response to Question 10 – Proceedings Raising the Same or Similar Issues**

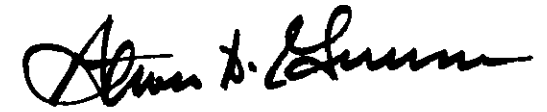
- Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortg., No. 68630 – Issue 1(b) from Chase’s Response to Question 9
- G&P Inv. Enters., LLC v. Mortg. Elec. Reg. Systems, Inc., No. 68842 – Issue 1(b)
- Chase Home Fin. LLC v. 10224 Black Friar Ct Trust, No. 69040 – Issue 1(b)
- Navy Fed. Credit Union v. Saticoy Bay LLC Series 1916 Summer Point, No. 69308 – Issue 1(b)
- Nationstar Mortg., LLC v. SFR Invs. Pool 1, LLC, No. 69400 – Issue 1(a)
- Saticoy Bay LLC Series 9641 Christine View v. Fed. Nat’l Mortg. Assoc., No. 69419 – Issue 1(a)
- K & P Homes v. Christiana Trust, No. 69966 – Issue 1(c)
- BDJ Investments, LLC v. U.S. Bank NA, No. 70229 – Issue 1(b)
- Citimortgage, Inc. v. SFR Invs. Pool 1, LLC, No. 70237 – Issues 1(a), 1(b), & 1(e)
- JPMorgan Chase Bank, N.A. v. SFR Invs. Pool 1, LLC, No. 70423 – Issues 1(a), 1(b), 1(c), 1(e), 1(f), & 2
- Nevada New Builds LLC v. Wells Fargo Bank, No. 70523 – Issues 1(b) & 1(c)
- JPMorgan Chase Bank, N.A. v. Holm International Properties, LLC, No. 70608 – Issues 1(b), 1(c), & 1(e)
- The Bank of New York Mellon v. NV Eagles, LLC, No. 70707 – Issues 1(b), 1(c), & 1(e)
- Deutsche Bank Nat’l Trust Co. v. Whittington Holdings 1, LLC, No. 70889 – Issues 1(b), 1(c), & 1(e)
- Wells Fargo Bank, N.A. v. Radecki, No. 71405 – Issues 1(b), 1(c), 1(e), & 1(f)
- U.S. Bank Nat’l Ass’n v. Hillsboro Heights HOA, No. 71188 – Issues 1(b), 1(c), & 1(e)
- JPMorgan Mortg. v. Bourne Valley Court Trust, No. 71198 – Issues 1(b), 1(c), & 1(e)

- Wilmington Trust v. SFR Invs. Pool 1, LLC, No. 71236 – Issues 1(b), 1(c), 1(e), & 1(f)
- JPMorgan Chase Bank, Nat'l Ass'n v. SFR Invs. Pool 1, LLC, No. 71337 – Issues 1(a), 1(b), 1(c), 1(e), 1(f), 2, & 3
- Wilmington Trust, N.A. v. Anthony S. Noonan IRA LLC, No. 71634 – Issues 1(b), 1(c), 1(e), & 1(f)
- Wilmington Trust, N.A. v. Holm International Properties, LLC, No. 71737 – Issues 1(b), 1(c), 1(e), & 1(f)



EXHIBIT 3

EXHIBIT 3



CLERK OF THE COURT

ACOM  
Abran E. Vigil  
Nevada Bar No. 7548  
Lindsay Demaree  
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*Attorneys for Plaintiff and Counter-Defendant  
JPMorgan Chase Bank, N.A.*

DISTRICT COURT  
CLARK COUNTY, NEVADA

JPMORGAN CHASE BANK, N.A., a  
national association,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a  
Nevada Limited Liability company; DOES  
I through X, ROE CORPORATIONS I  
through X, inclusive,

Defendants.

CASE NO. A-13-692202-C

DEPT NO. XXIV

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

Counter-Claimant/Cross-Claimant,

vs.

JPMORGAN CHASE BANK N.A., a  
national association; KYLEEN T. BELL,  
an individual; DOES I through X, ROE  
CORPORATIONS I through X, inclusive,

Counter-Defendant/Cross  
Defendants.

1 AMENDED COMPLAINT

2 Plaintiff JPMorgan Chase Bank, N.A. ("Chase"), by and through its counsel of  
3 record, hereby complains against Defendant SFR Investments Pool 1, LLC ("SFR") in  
4 this Amended Complaint as follows:

5 RELEVANT PARTIES AND JURISDICTION

6 1. Chase is a national banking association headquartered in Ohio and  
7 doing business in Clark County.

8 2. Upon information and belief, SFR is a Nevada limited liability company  
9 whose principal place of business is located in Nevada.

10 3. The real property that is the subject matter of this action is situated in  
11 Clark County, Nevada.

12 4. The Defendants DOES 1 through 10 and ROE BUSINESS ENTITIES 1  
13 through 10 set forth herein are persons or business entities currently unknown to  
14 Plaintiff who may have a claim to any interest in the subject matter of this action,  
15 whose true name(s) is (are) unknown to Plaintiff, and who are believed to be  
16 responsible for the events and happenings referred to in this Complaint, causing  
17 injuries and damages to Plaintiff, or who are otherwise interested in the subject  
18 matter of this Complaint. At such time when the names of said DOES and ROE  
19 BUSINESS ENTITIES have been ascertained, Plaintiff will request leave from the  
20 court to insert their true names and capacities and adjoin them in this action so that  
21 the Complaint will be amended to include the appropriate names of said DOES and  
22 ROE BUSINESS ENTITIES.

23 5. Venue is proper with this district pursuant to NRS 13.010 because the  
24 property at issue in this action is located in Clark County.

25 6. Venue is also proper in this district pursuant to NRS 13.040 because  
26 SFR resides in this district.

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14. Upon information and belief, the Property is subject to a Second Restated Declaration of Restrictions for Eastbridge Gardens Condominiums” (the “CC&Rs”). The CC&Rs were recorded in the Official Records of the Clark County

1 Recorder on or about February 05, 2003, as Book and Instrument Number  
2 20030205-01001.

3 15. On or about April 1, 2011, a Notice of Delinquent Assessment Lien was  
4 recorded by NAS as Book and Instrument Number 20110401-0001371 in the Official  
5 Records of the Clark County Recorder.

6 16. On or about September 21, 2011, a Notice of Default and Election to Sell  
7 Under Homeowners Association Lien was recorded by NAS as Book and Instrument  
8 Number 20110921-0000506 in the Official Records of the Clark County Recorder.

9 17. On or about June 1, 2012, NAS recorded a Notice of Foreclosure Sale as  
10 Book and Instrument Number 20120601-0001979 in the Official Records of the Clark  
11 County Recorder, setting a foreclosure sale date for June 29, 2012.

12 18. On or about March 31, 2013, Nevada Association Services, Inc. ("NAS"),  
13 as agent for Eastbridge Gardens Condominiums (the "HOA"), purportedly conducted  
14 a foreclosure sale of the Property ("HOA Sale").

15 19. Upon information and belief, SFR bid \$10,100 for the Property at the  
16 HOA Sale.

17 20. Upon information and belief, at the time of the HOA Sale, the fair  
18 market value of the Property was approximately \$70,000.

19 21. The amount that SFR paid for the Property was grossly inadequate  
20 when compared to the fair market value of the Property at the time of the HOA Sale.

21 22. On or about June 10, 2013, NAS recorded a Foreclosure Deed on the  
22 Property as Book and Instrument Number 20130610-0002206 in the Official Records  
23 of the Clark County Recorder.

24 23. After the date of the HOA Sale and recordation of the Foreclosure Deed,  
25 Chase continued to advance property preservation payments, including but not  
26 limited to payment of taxes and homeowners' insurance.

27 24. Neither the Notice of Delinquent Assessment Lien, Notice of Default  
28 and Election to Sell Under Homeowners Association Lien, or the Notice of Sale

1 (collectively, the "HOA Assessment Lien and Foreclosure Notices") provided any  
2 notice of a right to cure by Plaintiff.

3 25. None of the HOA Assessment Lien and Foreclosure Notices specified  
4 what portion, if any, that the HOA claimed constituted a "super-priority."

5 26. None of the HOA Assessment Lien and Foreclosure Notices specified  
6 whether the HOA was foreclosing on the "super-priority" portion of its lien, if any, or  
7 under the sub-priority lien.

8 27. Upon information and belief, Chase did not receive notice of all of the  
9 HOA Assessment Lien and Foreclosure Notices prior to the HOA Sale.

10 28. The HOA Sale deprived Chase of its right to due process.

11 29. Under NRS Chapter 116, a lien under NRS 116.3116(1) can only include  
12 costs and fees that are specifically enumerated in the statute

13 30. A homeowners association may only collect as a part of the  
14 super-priority lien (a) nuisance abatement charges incurred by the association  
15 pursuant to NRS 116.310312 and (b) nine months of common assessments which  
16 became due prior to the institution of an action to enforce the lien.

17 31. Upon information and belief, the HOA Assessment Lien and  
18 Foreclosure Notices included improper fees and costs in the amount demanded.

19 32. The attorney's fees and costs of collecting on a homeowners association  
20 lien cannot be included in the super-priority lien amount.

21 33. Upon information and belief, the HOA Assessment Lien and  
22 Foreclosure Notices included fines, interest, late fees, dues, attorney's fees, and costs  
23 of collection that are not properly included in a super-priority lien under Nevada law  
24 and that are not permissible under NRS 116.3102 *et seq.*

25 34. Chase believes and asserts that SFR is taking the position that the deed  
26 of trust securing the note has been abrogated by the HOA Sale.

1 FIRST CAUSE OF ACTION

2 (Declaratory Relief)

3 35. Chase repeats and re-alleges each and every allegation contained in  
4 Paragraphs 1 through 34 and incorporates the same as though fully set forth herein.

5 36. Pursuant to NRS 40.010, this Court has the power and authority to  
6 declare Chase's rights and interest in the Property.

7 37. The Deed of Trust is a first secured interest on the Property and is  
8 superior to the interest, if any, acquired by SFR.

9 38. SFR claims an interest in the Property adverse to Chase and Fannie  
10 Mae.

11 39. The HOA Sale did not comply with NRS Chapter 116, including, but not  
12 limited to, providing notice Chase. The HOA Sale is void and should be rescinded on  
13 that basis.

14 40. The HOA Sale is void and should be rescinded on the basis that it did  
15 not provide due process to Chase.

16 41. SFR's claim of free and clear title to the Property is barred by 12 U.S.C.  
17 § 4617(j)(3), which precludes a homeowners association sale from extinguishing  
18 Fannie Mae's interest in the Deed of Trust and preempts any state law to the  
19 contrary.

20 42. The amount paid by SFR for the Property is grossly inadequate when  
21 compared to the fair market value of the Property at the time of the HOA Sale.

22 43. For all the reasons set forth above in the General Allegations, Chase is  
23 entitled to a declaration from this Court, pursuant to NRS 40.010, that a first  
24 position Deed of Trust encumbered the Property and Chase's interest is superior to  
25 the interest held by SFR, if any, and all other parties.

1 **SECOND CAUSE OF ACTION**

2 **(Quiet Title)**

3 44. Chase repeats and re-alleges each and every allegation contained in  
4 Paragraphs 1 through 43 and incorporates the same as though fully set forth herein.

5 45. Pursuant NRS 40.010, this Court has the power and authority to  
6 declare Chase's rights and interests in the Property.

7 46. The Deed of Trust is a first secured interest on the Property and is  
8 superior to the interest, if any, acquired by SFR.

9 47. SFR claims an interest in the Property that is adverse to Chase's and  
10 Fannie Mae's Interest.

11 48. The HOA Sale did not comply with NRS Chapter 116, including, but not  
12 limited to, providing notice of the HOA Sale.

13 49. SFR's claim of free and clear title to the Property is barred by 12 U.S.C.  
14 § 4617(j)(3), which precludes a homeowners association sale from extinguishing  
15 Fannie Mae's interest in the Deed of Trust and preempts any state law to the  
16 contrary.

17 50. For all the reasons set forth above in the General Allegations, Chase is  
18 entitled to a declaration from this Court, pursuant NRS 40.010, that a Deed of Trust  
19 encumbered the Property and is superior to the interest held by SFR, if any, and all  
20 other parties. Chase has furthermore been required to retain counsel and is entitled  
21 to recover reasonable attorney's fees and costs.

22 **THIRD CAUSE OF ACTION**

23 **(Unjust enrichment)**

24 56. Chase repeats and re-alleges each and every allegation contained in  
25 Paragraphs 1 through 50 and incorporates the same as though fully set forth herein.

26 57. The HOA Sale unjustly enriched SFR, in that it obtained real property  
27 secured by the Deed of Trust with a grossly inadequate purchase price of \$10,100 to  
28



1 the detriment of Chase, and contrary to fundamental principles of fairness, justice,  
2 and fair dealing.

3 58. If it is determined that the Deed of Trust has been extinguished by the  
4 HOA Sale, SFR has been unjustly enriched, in that Chase has continued to expend  
5 funds and resources to maintain and preserve the Property, including but not limited  
6 to funds for taxes and insurance to the detriment of Chase, and contrary to  
7 fundamental principles of fairness, justice, and fair dealing.

8 59. Chase is entitled to recoup the reasonable amount of benefits obtained  
9 by SFR based on the theory of unjust enrichment.

10 60. Chase has furthermore been required to retain counsel and is entitled to  
11 recover reasonable attorney's fees and costs.

#### 12 PRAYER

13 Wherefore, Chase prays for judgment against SFR, as follows:

- 14 1. For a declaration and determination that the first position Deed of  
15 Trust was not extinguished by the HOA Sale.
- 16 2. For a declaration and determination that the HOA Sale did not convey  
17 the Property free and clear to SFR;
- 18 3. For a declaration and determination that the Deed of Trust is superior  
19 to the interest of SFR;
- 20 4. For a preliminary and permanent injunction that SFR, its successors,  
21 assigns, and agents are prohibited from conducting any sale, transfer or  
22 encumbrance of the Property;
- 23 5. For a preliminary injunction that SFR, its successors and assigns, be  
24 required to pay all taxes, insurance and homeowners association dues  
25 during the pendency of this action;
- 26 6. For a preliminary and permanent injunction that SFR, its successors  
27 and assigns, pay all taxes, insurance and homeowners association dues  
28 during the pendency of this action;

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7. If it is determined that the Deed of Trust has been extinguished by the HOA sale, for special damages in the amount of the fair market value of the Property or the unpaid balance of the Loan and Deed of Trust, at the time of the HOA Sale, whichever is greater;
8. For all fees and costs of court incurred herein, including post-judgment costs; and
9. For any and all further relief deemed appropriate by this Court.

DATED this 18 day of March, 2016.

BALLARD SPAHR LLP

By: 

Abran E. Vigil  
Lindsay C. Demaree  
Holly Ann Priest  
100 North City Parkway, Suite 1750  
Las Vegas, Nevada 89106-4617  
*Attorneys for Plaintiff and  
Counter-Defendant JPMorgan Chase  
Bank, N.A.*

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CERTIFICATE OF MAILING

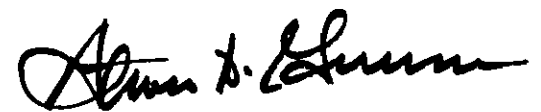
Pursuant to NRCP 5, I hereby certify that on the 18<sup>th</sup> day of March, 2016, an electronic copy of the AMENDED COMPLAINT was served on the following counsel of record via the Court's electronic service system:

:  
  
HOWARD C. KIM  
DIANA S. CLINE  
JACQUELINE A. GILBERT  
Kim Gilbert Ebron  
7625 Dean Martin Drive  
Suite 110  
Las Vegas, NV 89139

/s/ Mary Kay Carlton  
An employee of BALLARD SPAHR LLP

EXHIBIT 4

EXHIBIT 4



CLERK OF THE COURT

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8 Facsimile: (702) 485-3301  
*Attorneys for Defendant/Counter-claimant*  
9 *SFR Investments Pool 1, LLC*

10 **EIGHTH JUDICIAL DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 JPMORGAN CHASE BANK, NATIONAL  
13 ASSOCIATION, a national association,

14 Plaintiff,

15 vs.

16 SFR INVESTMENTS POOL 1, LLC, a  
17 Nevada limited liability company; DOES  
18 INDIVIDUALS 1 through 10; and ROE  
BUSINESS ENTITIES 1 through 10,  
inclusive,

19 Defendants.

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

22 Counter-Claimant/Cross-Claimant,

23 vs.

24 JPMORGAN CHASE BANK, NATIONAL  
25 ASSOCIATION, a national association;  
KYLEEN T. BELL, an individual; DOES 1 10  
26 and ROE BUSINESS ENTITIES 1 through 10  
inclusive.

27 Counter-Defendant/Cross  
28 Defendants.

Case No. A-13-692202-C

Dept. No. XVIII

**ANSWER, COUNTERCLAIM AND  
CROSS-CLAIM**

**HOWARD KIM & ASSOCIATES**  
1055 WHITNEY RANCH DRIVE, SUITE 110  
HENDERSON, NEVADA 89014  
(702) 485-3300 FAX (702) 485-3301

Plaintiff SFR INVESTMENTS POOL 1, LLC (“SFR” or “Defendant”), hereby answers BANK JPMORGAN CHASE BANK, NATIONAL ASSOCIATION’s (“Chase”) Complaint as follows:

1. Answering paragraph 1 of the complaint, SFR admits upon information and belief, that the subject matter of Chase’s complaint is real property commonly known as **2824 Begonia Court, Henderson, NV 89074**. The remaining allegations in paragraph 1 of the complaint call for a legal conclusion, therefore, no answer is required. To the extent an answer is required, SFR denies the factual allegations contained in paragraph 1 of the complaint.

2. SFR is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in paragraph 2 of the complaint, and therefore denies said allegations.

3. SFR admits the factual allegations contained in paragraph 3 of the complaint.

4. SFR is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in paragraphs 4 and 5 of the complaint, and therefore denies said allegations.

5. SFR admits the factual allegations contained in paragraphs 6 and 7 of the complaint.

### **GENERAL ALLEGATIONS**

6. SFR is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in paragraphs 8, 9, 10 and 11 of the complaint, and therefore denies said allegations.

7. Answering paragraph 12 of the complaint, SFR admits upon information and belief, that SFR purchased the Property on May 31, 2013 at an association foreclosure sale.

8. SFR is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in paragraph 13 of the complaint, and therefore denies said allegations.

9. SFR admits the factual allegations contained in paragraph 14 of the complaint.

**FIRST CAUSE OF ACTION**

**(Declaratory Relief)**

10. SFR repeats and realleges its answers to paragraphs 1 through 14 of the complaint as though fully set forth herein.

11. SFR admits the factual allegations contained in paragraphs 11 and 12 of the complaint.

12. The allegations contained in paragraphs 18, 19 and 20 of the complaint call for a legal conclusion, therefore, no answer is required. To the extent an answer is required, SFR denies the factual allegations contained in paragraphs 18, 19 and 20 of the complaint.

13. SFR denies the factual allegations contained in paragraph 21 of the complaint.

**SECOND CAUSE OF ACTION**

**(Quiet Title)**

14. SFR repeats and realleges its answers to paragraphs 1 through 21 of the complaint as though fully set forth herein.

15. The allegations contained in paragraphs 23 and 24 of the complaint call for a legal conclusion, therefore, no answer is required. To the extent an answer is required, SFR denies the factual allegations contained in paragraphs 23 and 24 of the complaint.

16. SFR denies the factual allegations contained in paragraph 25 of the complaint.

**AFFIRMATIVE DEFENSES**

1. Chase fails to state a claim upon which relief may be granted.

2. Chase is not entitled to relief from or against SFR, as Chase has not sustained any loss, injury, or damage that resulted from any act, omission, or breach by SFR.

3. The occurrence referred to in the Complaint, and all injuries and damages, if any, resulting therefrom, were caused by the acts or omissions of Chase.

4. The occurrence referred to in the Complaint, and all injuries and damages, if any, resulting therefrom, were caused by the acts or omissions of a third party or parties over whom SFR had no control.

5. SFR did not breach any statutory or common law duties allegedly owed to Chase.

6. Chase's claims are barred because SFR complied with applicable statutes and with the

requirements and regulations of the State of Nevada.

7. Chase's causes of action are barred in whole or in part by the applicable statutes of limitations or repose, or by the equitable doctrines of laches, waiver, estoppel, and ratification.

8. Chase is not entitled to equitable relief because it has an adequate remedy at law.

9. Chase has no standing to enforce the first deed of trust and the underlying promissory note.

10. The first deed of trust and other subordinate interests in the Property were extinguished by the Association foreclosure sale held in accordance with NRS Chapter 116.

11. Pursuant to Nevada Rule of Civil Procedure 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry at the time of filing this Answer. Therefore, SFR reserves the right to amend this Answer to assert any affirmative defenses if subsequent investigation warrants.

**COUNTERCLAIM AND CROSS-CLAIM**  
**FOR QUIET TITLE AND INJUNCTIVE RELIEF**

SFR INVESTMENTS POOL 1, LLC ("SFR"), hereby demands quiet title, requests injunctive relief and claims unjust enrichment against Counter-Defendant, JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national association ("Chase"), Cross-Defendant KYLEEN T. BELL, an individual; DOES 1 10 and ROE BUSINESS ENTITIES 1 through 10 inclusive, as follows:

**I. PARTIES**

1. SFR is a Nevada limited liability company with its principal place of business in Clark County, Nevada and the current title owner of the property commonly known as **2824 Begonia Court, Henderson, NV 89074; Parcel No. 177-12-410-074** (the "Property").

2. Upon information and belief, Counter-Defendant JPMORGAN CHASE BANK, NATIONAL ASSOCIATION ("Chase"), is a national association that may claim an interest in the Property via a 2002 deed of trust originated by Republic Mortgage, LLC.

3. Upon information and belief, Cross-Defendant, KYLEEN T. BELL ("Bell") is the former homeowner that may claim an interest in the Property.



1       4. Upon information and belief, each of the Cross-Defendants sued herein as DOES I  
2 through X, inclusive claim an interest in the Property or are responsible in some manner for the  
3 events and action that SFR seeks to enjoin; that when the true names capacities of such  
4 defendants become known, SFR will ask leave of this Court to amend this counterclaim to insert  
5 the true names, identities and capacities together with proper charges and allegations.

6       5. Upon information and belief, each of the Cross-Defendants sued herein as ROES  
7 CORPORATIONS I through X, inclusive claim an interest in the Property or are responsible in  
8 some manner for the events an happenings herein that SFR seeks to enjoin; that when the true  
9 names capacities of such defendants become known, SFR will ask leave of this Court to amend  
10 this counterclaim to insert the true names, identities and capacities together with proper charges  
11 and allegations.

## 12                                   II. GENERAL ALLEGATIONS

### 13       *SFR Acquired Title to the Property through Foreclosure of an Association Lien with Super* 14       *Priority Amounts*

15       6. SFR acquired the Property on May 31, 2013 by successfully bidding on the Property at a  
16 publicly-held foreclosure auction in accordance with NRS 116.3116, *et. seq.* (“Association  
17 foreclosure sale”). Since the Association foreclosure sale, SFR has expended additional funds  
18 and resources in relation to the Property.

19       7. On or about June 10, 2013, the resulting foreclosure deed was recorded in the Official  
20 Records of the Clark County Recorder as Instrument Number 201306100002206 (“Association  
21 Foreclosure Deed”).

22       8. The foreclosure sale was conducted by Nevada Association Services, Inc. (“NAS”), agent  
23 for Eastbridge Gardens Condominiums (the “Association”), pursuant to the powers conferred by  
24 the Nevada Revised Statutes 116.3116, 116.31162, 116.31163 and 116.31164, the Association’s  
25 governing documents (CC&R’s) and a Notice of Delinquent Assessment Lien, recorded on April  
26 1, 2011 in the Official Records of the Clark County Recorder as Instrument Number  
27 201104010001371 (“Association Lien”).

28       9. As recited in the Association Foreclosure Deed, the Association foreclosure sale

1 complied with all requirements of law, including but not limited to, recording and mailing of  
2 copies of Notice of Delinquent Assessment and Notice of Default, and the recording, posting and  
3 publication of the Notice of Sale.

4 10. Pursuant to NRS 116.3116(2), the entire Association Lien

5 is prior to all other liens and encumbrances of unit except:

6 (a) Liens and encumbrances recorded before the recordation of the declaration  
7 and, in a cooperative, liens and encumbrances which the association creates,  
8 assumes or takes subject to;

9 (b) A first security interest on the unit recorded before the date on which the  
10 assessment sought to be enforced became delinquent or, in a cooperative, the first  
11 security interest encumbering only the unit's owner's interest and perfected before  
12 the date on which the assessment sought to be enforced became delinquent; and

13 (c) Liens for real estate taxes and other governmental assessments or charges  
14 against the unit or cooperative.

15 11. NRS 116.3116(2) further provides that a portion of the Association Lien has priority over  
16 even a first security interest in the Property:

17 [the Association Lien] is also prior to all security interests described in paragraph  
18 (b) to the extent of any charges incurred by the association on a unit pursuant to  
19 NRS 116.310312 and to the extent of the assessments for common expenses  
20 based on the periodic budget adopted by the association pursuant to NRS  
21 116.3115 which would have become due in the absence of acceleration during the  
22 9 months immediately preceding institution of an action to enforce the lien[.]

23 12. Upon information and belief, the Association took the necessary action to trigger the  
24 super-priority portion of the Association Lien.

25 13. Upon information and belief, no party still claiming an interest in the Property recorded a  
26 lien or encumbrance prior to the declaration creating the Association.

27 14. Upon information and belief, SFR's bid on the Property was in excess of the amount  
28 necessary to satisfy the costs of sale and the super-priority portion of the Association Lien.

15. Upon information and belief, the Association or its agent NAS has distributed or is  
attempting to distribute the excess funds to lien holders in order of priority pursuant to NRS  
116.31164(c).

16. Upon information and belief, Counter-Defendant and Cross-Defendant had actual or  
constructive notice of the requirement to pay assessments to the Association and of the  
Association Lien.

1 17. Upon information and belief, Counter-Defendant and Cross-Defendant had actual or  
2 constructive notice of the Association's foreclosure proceedings.

3 18. Upon information and belief, prior to the Association foreclosure sale, no individual or  
4 entity paid the full amount of delinquent assessments described in the Notice of Default.

5 19. Upon information and belief, Counter-Defendant Chase had actual or constructive notice  
6 of the super-priority portion of the Association Lien.

7 20. Upon information and belief, Counter-Defendant Chase knew or should have known that  
8 its interest in the Property could be extinguished through foreclosure if he failed to cure the  
9 super-priority portion of the Association Lien representing 9 months of assessments for common  
10 expenses based on the periodic budget adopted by the association which would have become due  
11 in the absence of acceleration for the relevant time period.

12 21. Upon information and belief, prior to the Association foreclosure sale, no individual or  
13 entity paid the super-priority portion of the Association Lien representing 9 months of  
14 assessments for common expenses based on the periodic budget adopted by the association  
15 which would have become due in the absence of acceleration for the relevant time period.

16 22. The Association foreclosure sale was publicly advertised in advance of the sale.

17 23. Multiple bidders attended the auction.

18 24. SFR's bid was in excess of the amount included on the Association's notice of sale.

19 25. When it purchased the Property, SFR had no knowledge of any alleged dispute over  
20 amounts owed to the Association, any purported noticing issues, or any alleged proper tender of  
21 the full lien amount by Counter-Defendants.

22 26. SFR is a bona fide purchaser for value.

23 27. Pursuant to NRS 116.31166, the foreclosure sale vested title in SFR "without equity or  
24 right of redemption," and the Foreclosure Deed is conclusive against the Property's "former  
25 owner, his or her heirs and assigns, and **all other persons.**"

26 ***Interests, Liens and Encumbrances Extinguished by the Super-Priority Association Lien***

27 28. Upon information and belief, Bell first obtained title to the Property in April of 1995  
28 through a Grant, Bargain Sale Deed from John McDonald recorded on April 21, 1995 in the

Official Records of the Clark County Recorder as Instrument No. 199504210001512.

29. On or about November 25 2002, Republic Mortgage, LLC (“Republic Mortgage”) recorded a deed of trust against the Property in the Official Records of the Clark County Recorder as Instrument No. 200211250002874 (“First Deed of Trust”).

30. Upon information and belief, the Association was formed and its declaration of CC&Rs was recorded in the Official Records of the Clark County Recorder before the First Deed of Trust was recorded.

31. Upon information and belief, Republic Mortgage had actual or constructive notice of the Association Lien and NRS 116.3116 before it funded the loan secured by the First Deed of Trust.

32. The First Deed of Trust contains a Condominium Rider recognizing the applicability of Association’s declaration of CC&Rs that were recorded.

33. Upon information and belief, on October 18, 2011, Deborah A. Yates, Assistant Secretary for Mortgage Electronic Registration Systems, Inc, (“MERS”) executed an assignment that transferred the beneficial interest in the First Deed of Trust, together with the underlying promissory note, to Chase. The assignment was recorded on October 25, 2012 against the Property in Official Records of the Clark County Recorder as Instrument No. 201210250002057.

34. Upon information and belief, Chase had actual or constructive notice of the Association Lien and NRS 116.3116 before it obtained an interest in the First Deed of Trust.

35. On or about, November 26, 2013, Chase filed a Complaint for declaratory relief and quiet title.

36. Counter-Defendant Chase’s interest in the Property was extinguished by the foreclosure of the Association Lien.

37. Cross-Defendant Bell’s interest in the Property was extinguished by the foreclosure of the super priority portion of the Association Lien.

**III. FIRST CLAIM FOR RELIEF**  
**(Declaratory Relief/Quiet Title Pursuant to NRS 30.010, *et. seq.*, NRS 40.10 & NRS 116.3116)**

38. SFR repeats and realleges the allegations of paragraphs 1-37 as though fully set forth herein and incorporates the same by reference.

1 39. Pursuant to NRS 30.010, *et. seq.* and NRS 40.10, this Court has the power and authority  
2 to declare the SFR's rights and interests in the Property and to resolve the Counter-Defendant  
3 and Cross-Defendant's adverse claims in the Property.

4 40. SFR acquired the Property on May 31, 2013 by successfully bidding on the Property at a  
5 publicly-held foreclosure auction in accordance with NRS 116.3116, *et. seq.* and the resulting  
6 Association Foreclosure Deed vesting title in SFR was recorded on June 10, 2013.

7 41. Upon information and belief, Counter Defendant, Chase may claim an interest in the  
8 Property via the First Deed of Trust against the Property even after the Association foreclosure  
9 sale.

10 42. Upon information and belief, Cross-Defendant, Bell, may claim an ownership interest in  
11 the Property.

12 43. A foreclosure sale conducted pursuant to NRS 116.31162-116.31168, like all foreclosure  
13 sales, extinguishes the title owner's interest in the Property and all junior liens and  
14 encumbrances, including deeds of trust.

15 44. Pursuant to NRS 116.3116(2), the super-priority portion of the Association Lien has  
16 priority over the First Deed of Trust.

17 45. Counter-Defendant and Cross-Defendant were duly notified of the Association  
18 foreclosure sale and failed to act to protect their interests in the Property, if any legitimately  
19 existed.

20 46. SFR is entitled to a declaratory judgment from this Court finding that: (1) SFR is the title  
21 owner of the Property; (2) the Association Foreclosure Deed is valid and enforceable; (3) the  
22 Association foreclosure sale extinguished Counter-Defendant and Cross-Defendant's ownership  
23 and security interests in the Property; and (4) SFR's rights and interest in the Property are  
24 superior to any adverse interest claimed by Counter-Defendant and Cross-Defendant.

25 47. SFR seeks an order from the Court quieting title to the Property in favor of SFR.

26 **IV. SECOND CLAIM FOR RELIEF**  
27 **(Preliminary and Permanent Injunction)**

28 48. SFR repeats and realleges the allegations of paragraphs 1- 47 as though fully set forth

herein and incorporates the same by reference.

49. SFR properly acquired title to the Property at the Association foreclosure sale on May 31, 2013.

50. Counter-Defendant Chase may claim that it maintained an interest in the Property through the First Deed of Trust which was extinguished by the Association foreclosure sale.

51. Cross-Defendant, Bell, may claim an ownership interest in the Property.

52. A foreclosure sale based on the First Deed of Trust is invalid as Counter-Defendant Chase lost its interest in the Property, if any, at the Association foreclosure sale.

53. Any sale or transfer of title to the Property by Counter-Defendant and Cross-Defendant would be invalid because their interest in the Property, if any, was extinguished by the Association foreclosure sale.

54. Any attempt to take or maintain possession of the Property by Counter-Defendant and Cross-Defendant would be invalid because their interest in the Property, if any, was extinguished by the Association foreclosure sale.

55. Any attempt to sell, transfer, encumber or otherwise convey the Property by the Counter-Defendant and Cross-Defendant would be invalid because their interest in the Property, if any, was extinguished by the Association foreclosure sale.

56. On the basis of the facts described herein, SFR has a reasonable probability of success on the merits of its claims and has no other adequate remedies at law.

57. SFR is entitled to a preliminary injunction and permanent injunction prohibiting Counter-Defendant and Cross-Defendants from beginning or continuing any eviction proceedings that would affect SFR's possession of the Property.

58. SFR is entitled to a preliminary injunction and permanent injunction prohibiting Counter-Defendant and Cross-Defendant from any sale or transfer that would affect the title to the Property.

## **V. PRAYER FOR RELIEF**

SFR requests judgment against Counter-Defendant and Cross-Defendant as follows:

1. For a declaration and determination that SFR Investments Pool 1, LLC is

1 the rightful owner of title to the Property, and that Counter Defendant and Cross-  
2 Defendants be declared to have no right, title or interest in the Property.

3 2. For a preliminary and permanent injunction that Counter-Defendant and  
4 Cross-Defendants are prohibited from initiating or continuing foreclosure proceedings,  
5 and from selling or transferring the Property;

6 3. For an award of attorney's fees and costs of suit; and

7 4. For any further relief that the Court may deem just and proper.

8 DATED January 24th, 2014.

**HOWARD KIM & ASSOCIATES**

/s/Diana S. Cline

HOWARD C. KIM, ESQ.

Nevada Bar No. 10386

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*Attorneys for SFR Investments Pool 1, LLC*

EXHIBIT 5

EXHIBIT 5





CLERK OF THE COURT

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*Attorneys for Defendant/Counter-claimant*  
*SFR Investments Pool 1, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a  
Nevada limited liability company; DOES  
INDIVIDUALS 1 through 10; and ROE  
BUSINESS ENTITIES 1 through 10,  
inclusive,

Defendants.

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

Counter-Claimant/Cross-  
Claimant,

vs.

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association;  
KYLEEN T. BELL, an individual; DOES 1 10  
and ROE BUSINESS ENTITIES 1 through 10  
inclusive.

Counter-Defendant/Cross Defendants.

Case No. A-13-692202-C

Dept. No. XVIII

**STIPULATION AND ORDER TO  
DISMISSING KYLEEN T. BELL  
WITHOUT PREJUDICE**

**HOWARD KIM & ASSOCIATES**

1055 Whitney Ranch Drive, SUITE 110  
HENDERSON, NEVADA 89014  
(702) 485-3300 FAX (702) 485-3301

Cross-Defendant Kyleen T. Bell ("Bell") stipulates and agrees that any ownership interest she may have had in the real property commonly known as **2824 Begonia Court, Henderson, NV 89074; Parcel No. 177-12-410-074** (the "Property") was extinguished on May 31, 2013, by the foreclosure sale conducted by Nevada Association Services, agent for Eastbridge Gardens Condominiums. Further, Cross-Defendant stipulates and agrees that it surrendered any interest in the Property in her Chapter 7 Bankruptcy, Case No. 14-11277-abl, filed on February 28, 2014 in the U.S. Bankruptcy Court, District of Nevada, and from which she received a discharge on June 4, 2014, and which case was closed on June 9, 2014.

Cross-Defendant Bell further stipulates and agrees that it will not contest the validity of the foreclosure deed recorded in the Official Records of the Clark County Recorder as Instrument Number 201306100002206, or any subsequent transactions, including SFR Investments Pool 1, LLC's ("SFR") ownership interest in the Property.

Based on these representations, SFR and Cross-Defendant Bell stipulate and agree that Bell shall be dismissed from this action, without prejudice, each party to bear its own fees and costs.

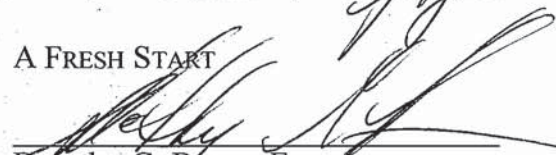
DATED this 17 day of Aug, 2014.

HOWARD KIM & ASSOCIATES

  
Diana S. Cline, Esq.  
Nevada Bar No. 10580  
1055 Whitney Ranch Drive, Suite 110  
Henderson, Nevada 89014  
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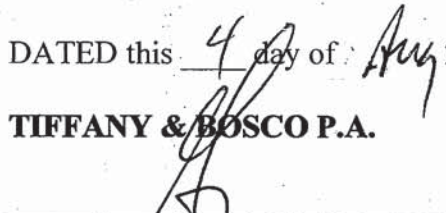
DATED this 30 day of July, 2014.

A FRESH START

  
Dorothy G. Bunce, Esq.  
Nevada Bar No. 756  
afreshstart@cox.net  
2037 Franklin Ave.  
Las Vegas, Nevada 89104  
*Attorney for Kyleen T. Bell*

DATED this 4 day of Aug, 2014.

**TIFFANY & BOSCO P.A.**

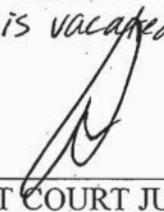
  
GREGORY L. WILDE, ESQ.  
Nevada Bar No. 4417  
212 S. Jones Blvd.  
Las Vegas, NV 89107  
*Attorney for JPMorgan Chase Bank*



1 *National Association*


2 **ORDER**

3 IT IS SO ORDERED, that Kyleen Bell be dismissed without prejudice and  
4 the motion for Default Judgment set for 8/12/14 is vacated,  
5 Dated this 5<sup>th</sup> day of August, 2014.

6   
DISTRICT COURT JUDGE

7 Respectfully Submitted by:

8 **HOWARD KIM & ASSOCIATES**

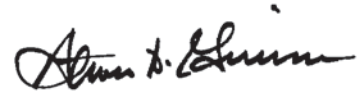
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10 HOWARD C. KIM, ESQ.  
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EXHIBIT 6

EXHIBIT 6



CLERK OF THE COURT

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*Attorneys for Defendant/Counter-claimant*  
*SFR Investments Pool 1, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association,

Case No. A-13-692202-C

Plaintiff,

Dept. No. XVIII

vs.

SFR INVESTMENTS POOL 1, LLC, a  
Nevada limited liability company; DOES  
INDIVIDUALS 1 through 10; and ROE  
BUSINESS ENTITIES 1 through 10,  
inclusive,

**NOTICE OF ENTRY OF STIPULATION  
AND ORDER DISMISSING KYLEEN T.  
BELL WITHOUT PREJUDICE**

Defendants.

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

Counter-Claimant/Cross-Claimant,  
vs.

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association;  
KYLEEN T. BELL, an individual; DOES 1 10  
and ROE BUSINESS ENTITIES 1 through 10  
inclusive.

Counter-Defendant/Cross Defendants.

PLEASE TAKE NOTICE that on August 6, 2014, this Court entered a Stipulation and  
Order Dismissing Kyleen T. Bell Without Prejudice.

///

**HOWARD KIM & ASSOCIATES**  
1055 WHITNEY RANCH DRIVE, SUITE 110  
HENDERSON, NEVADA 89014  
(702) 485-3300 FAX (702) 485-3301

1 A copy of Said Order is attached hereto.

2 DATED this 8th day of August, 2014.

3  
4 **HOWARD KIM & ASSOCIATES**

5 /s/ Diana S. Cline

6 HOWARD C. KIM, ESQ.

7 Nevada Bar No. 10386

8 DIANA S. CLINE, ESQ.

9 Nevada Bar No. 10580

10 1055 Whitney Ranch Drive, Suite 110

11 Henderson, Nevada 89014

12 Telephone: (702) 485-3300

13 Facsimile: (702) 485-3301

14 *Attorneys for SFR Investments Pool 1, LLC*

15  
16 **CERTIFICATE OF SERVICE**

17 I HEREBY CERTIFY that on this 8th day of August, 2014, pursuant to NRCP 5(b), I  
18 served the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER**  
19 **DISMISSING KYLEEN T. BELL WITHOUT PREJUDICE** via first class mail, postage  
20 prepaid, to the following parties:

21 Gregory L Wilde

22 TIFFANY & BOSCO P.A.

23 212 S. Jones Blvd.

24 Las Vegas, NV 89107

25 *Attorney for JPMorgan Chase Bank National Association*

26 Dorothy G. Bunce, Esq.

27 A FRESH START

28 2037 Franklin Avenue

Las Vegas, Nevada 89104

*Attorney for Kyleen T. Bell*

/s/ Tommie Dooley

An Employee of Howard Kim & Associates



CLERK OF THE COURT

**SAO**

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**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a  
Nevada limited liability company; DOES  
INDIVIDUALS 1 through 10; and ROE  
BUSINESS ENTITIES 1 through 10,  
inclusive,

Defendants.

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

Counter-Claimant/Cross-  
Claimant,

vs.

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association;  
KYLEEN T. BELL, an individual; DOES 1 10  
and ROE BUSINESS ENTITIES 1 through 10  
inclusive.

Counter-Defendant/Cross Defendants.

Case No. A-13-692202-C

Dept. No. XVIII

**STIPULATION AND ORDER TO  
DISMISSING KYLEEN T. BELL  
WITHOUT PREJUDICE**

**HOWARD KIM & ASSOCIATES**

1055 Whitney Ranch Drive, SUITE 110  
HENDERSON, NEVADA 89014  
(702) 485-3300 FAX (702) 485-3301



Cross-Defendant Kyleen T. Bell ("Bell") stipulates and agrees that any ownership interest she may have had in the real property commonly known as **2824 Begonia Court, Henderson, NV 89074; Parcel No. 177-12-410-074** (the "Property") was extinguished on May 31, 2013, by the foreclosure sale conducted by Nevada Association Services, agent for Eastbridge Gardens Condominiums. Further, Cross-Defendant stipulates and agrees that it surrendered any interest in the Property in her Chapter 7 Bankruptcy, Case No. 14-11277-abl, filed on February 28, 2014 in the U.S. Bankruptcy Court, District of Nevada, and from which she received a discharge on June 4, 2014, and which case was closed on June 9, 2014.

Cross-Defendant Bell further stipulates and agrees that it will not contest the validity of the foreclosure deed recorded in the Official Records of the Clark County Recorder as Instrument Number 201306100002206, or any subsequent transactions, including SFR Investments Pool 1, LLC's ("SFR") ownership interest in the Property.

Based on these representations, SFR and Cross-Defendant Bell stipulate and agree that Bell shall be dismissed from this action, without prejudice, each party to bear its own fees and costs.

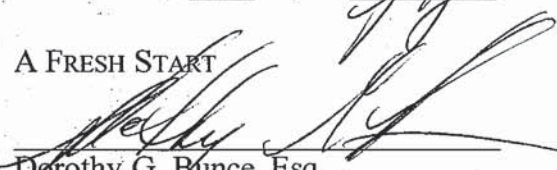
DATED this 17 day of Aug, 2014.

HOWARD KIM & ASSOCIATES

  
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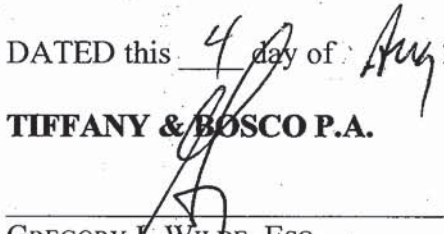
DATED this 30 day of July, 2014.

A FRESH START

  
Dorothy G. Bunce, Esq.  
Nevada Bar No. 756  
afreshstart@cox.net  
2037 Franklin Ave.  
Las Vegas, Nevada 89104  
*Attorney for Kyleen T. Bell*

DATED this 4 day of Aug, 2014.

**TIFFANY & BOSCO P.A.**

  
GREGORY L. WILDE, ESQ.  
Nevada Bar No. 4417  
212 S. Jones Blvd.  
Las Vegas, NV 89107  
*Attorney for JPMorgan Chase Bank*



1 National Association

2 **ORDER**

3 IT IS SO ORDERED, that Kyleen Bell be dismissed without prejudice and  
4 the motion for Default Judgment set for 8/12/14 is vacated,  
5 Dated this 5<sup>th</sup> day of August, 2014.

6   
DISTRICT COURT JUDGE 28

7 Respectfully Submitted by:

8 **HOWARD KIM & ASSOCIATES**

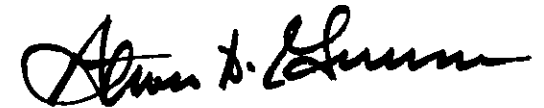
9   
10 HOWARD C. KIM, ESQ.  
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EXHIBIT 7

EXHIBIT 7



CLERK OF THE COURT

1 **ORDR**  
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10 **EIGHTH JUDICIAL DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 JPMORGAN CHASE BANK, NATIONAL  
13 ASSOCIATION, a national association,

13 Plaintiff,

14 vs.

15 SFR INVESTMENTS POOL 1, LLC, a  
16 Nevada limited liability company; DOES  
17 INDIVIDUALS 1 through 10; and ROE  
18 BUSINESS ENTITIES 1 through 10, inclusive,

17 Defendants.

18 AND ALL RELATED CLAIMS.

Case No. A-13-692202-C

Dept. No. XXIV

**ORDER GRANTING SFR INVESTMENTS  
POOL 1, LLC'S MOTION FOR  
SUMMARY JUDGMENT**

19 This matter came before the Court on SFR Investments Pool 1, LLC ("SFR") Motion for  
20 Summary Judgment ("SFR MSJ") <sup>ON AUGUST 23, 2016 @ 9 AM,</sup> filed on July 22, 2016, seeking judgment on its claims against  
21 JPMorgan Chase Bank, National Association ("Chase") for quiet title/declaratory relief and on  
22 Chase's claims against SFR for quiet title/declaratory relief and unjust enrichment. Chase filed  
23 its opposition to SFR's MSJ on August 8, 2016, and SFR filed its reply on August 15, 2016.  
24 Zachary Clayton, Esq. of Kim Gilbert Ebron appeared on behalf of SFR and Holly Priest, Esq. of  
25 Ballard Spahr LLP appeared on behalf of Chase. No other parties or counsel appeared.

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

1 Having reviewed and considered the full briefing and arguments of counsel, for the  
2 reasons stated on the record and in the pleadings, and good cause appearing, this Court makes the  
3 following findings of fact and conclusions of law.<sup>1</sup>

4 FINDINGS OF FACT

5 1. In 1991, Nevada adopted the Uniform Common Interest Ownership Act as NRS  
6 116, including NRS 116.3116(2).<sup>2</sup>

7 2. Kylan T. Bell took title to the real property commonly known as 2824 Begonia  
8 Court, Henderson, NV 89074; Parcel No. 177-12-410-074 (the "Property"), by way of a  
9 Grant, Bargain, sale Deed recorded as Instrument No. 199504210001512 on April 21, 1995.

10 3. On February 5, 2003, Eastbridge Gardens Condominiums' (the "Association"),  
11 recorded in the Official Records of the Clark County Recorder, its Second Restated Declaration  
12 of Covenants, Conditions and Restrictions ("CC&Rs") as Instrument No. 200202060001001 of  
13 the Official Records of the Clark County Recorder.<sup>3</sup>

14 4. On November 25, 2002, a Deed of Trust was recorded against the Property as  
15 Instrument No. 200211250002874 ("Deed of Trust"). The Deed of Trust was executed by Bell  
16 to secure a promissory note in the amount of \$68,000.00. The Deed of Trust designated  
17 Mortgage Electronic Registration Systems, Inc. ("MERS") as beneficiary in a nominee capacity  
18 for the original lender, Republic Mortgage, LLC, and the original lender's successors and  
19 assigns.

20 5. As part of the loan transaction, the original lender prepared and Bell signed, a  
21 Condominium Rider to the Deed of Trust, recognizing that the Property was located in a sub-  
22 common interest community within the Association.

23 6. On April 1, 2011, Nevada Association Services ("NAS") recorded on behalf of  
24 the Association a Notice of Delinquent Assessment Lien as Instrument No. 201104010001371

25 \_\_\_\_\_  
26 <sup>1</sup> Any findings of fact that are more appropriately conclusions of law shall be so deemed. Any conclusions  
of law that are more appropriately findings of fact shall be so deemed.

27 <sup>2</sup> Unless otherwise noted, the findings set forth herein are undisputed.

28 <sup>3</sup> When a document is stated to have been recorded, it refers to being recorded in the Official records of  
the Clark County Recorder.

1 ("NODA"). The NODA was mailed to Bell.

2 7. On May 31, 2012, NAS recorded on behalf of the Association a Notice of  
3 Trustee's Sale as Instrument No. 201206010001979 ("NOS"). The NOS was mailed to Chase  
4 and Bell. Chase admits receipt of the NOS. The NOS was posted and published pursuant to  
5 statutory requirements.

6 8. On September 21, 2012, NAS recorded on behalf of the Association a Notice of  
7 Default and Election to Sell Under Homeowners Association Lien as Instrument No.  
8 201109210000506 ("NOD"). The NOD was mailed to Chase and Bell.

9 9. On October 25, 2012, an Assignment of Deed of Trust was recorded as  
10 Instrument No. 201210250002057, pursuant to which MERS, in its capacity as beneficiary in a  
11 nominee capacity for the lender and the lender's successors and assigns, assigned the Deed of  
12 Trust to Chase.

13 10. On April 29, 2013, Assignment of First Deed of Trust to Chase Bank is re-  
14 recorded as Instrument No. 201304290002908.

15 11. On May 2, 2013, NAS sent on behalf of the Association a Second Notice of  
16 Trustee's Sale ("SNOS"). This notice was recorded as instrument No. 201305070000894. The  
17 SNOS was mailed to Chase and Bell. Chase admits receipt of the SNOS. The SNOS was posted  
18 and published pursuant to statutory requirements. Per the notice, the sale was set for May 31,  
19 2013.

20 12. On May 9, 2013, National Default Services Corp. ("NDSC") as trustee, recorded  
21 a Notice of Default and Election to Sell Under Deed of Trust, stating the Bell had become  
22 delinquent on payments under the note.

23 13. On May 31, 2013, NAS held the Association foreclosure sale at which SFR  
24 placed the highest bid of \$10,100.00 ("Association foreclosure sale").

25 14. The Trustee's Deed Upon Sale vesting title in SFR was recorded on June 10,  
26 2013 as Instrument No. 201306100002206. The Trustee's Deed included the following recitals:

27 This conveyance is made pursuant to the powers conferred upon [NAS] by  
28 Nevada Revised Statutes, the Eastbride Gardens Condominiums governing  
documents (CC&Rs) and that certain Notice of Delinquent Assessment Lien,

described herein. Default occurred as set forth in a Notice of Default and Election, recorded on 9/21/2011. . . . Nevada Association Services, Inc. has complied with all requirements of law including, but not limited to, the elapsing of 90 days, mailing of copies of [NODA] and [NOD] and the posting and publication of the Notice of Sale.

15. Chase is charged with knowledge of NRS 116 since its adoption in 1991.

16. Despite being fully aware of the Association's foreclosure sale, neither Chase, its predecessors in interest, nor their agents attempted to pay any amount of the Association's lien. Neither did they take any action to enjoin the sale or seek some intervention to determine an amount to pay.

17. In the Nevada Supreme Court's SFR Investments Pool 1, LLC v. U.S. Bank, N.A., decision, the Court was unanimous in its interpretation that a homeowners association foreclosure sale could extinguish a first deed of trust, and the only disagreement being in whether the foreclosure could be non-judicial or must be judicial. 130 Nev. \_\_\_\_, 332 P.3d 408, 419 (2014) (majority holding and first paragraph of the concurring in part, dissenting in part by C.J. Gibbons) ("SFR Decision").

18. There is no suggestion of fraud, oppression or unfairness in the conduct of the sale. Thus, whether the price was inadequate or grossly inadequate, is immaterial.

19. In its opposition, Chase argued the loan was owned by the Federal National Mortgage Association ("Fannie Mae") and Chase was the servicer of the loan for Fannie Mae at the time of the subject HOA foreclosure sale. Chase further argued that due to Fannie Mae's interest, SFR's alleged interest was subject to the Deed of Trust pursuant to the Housing and Economic Recovery Act of 2008 ("HERA") specifically, 12 U.S.C. § 4617(i)(3).

20. In its reply, SFR argued that if the Court were to overturn the sale, the sale must be voided and that SFR cannot be made to take title subject to the Bank's Deed of Trust.

21. Chase also argued that the SFR Decision should not be applied retroactively.

22. Chase provided no evidence that its alleged payments for taxes or insurance were made in defense of property. There was no evidence that SFR was a named additional insured on any insurance policy on the Property obtained by Chase, nor did Chase provide evidence that the Property was in danger of being sold for delinquent taxes.

## CONCLUSIONS OF LAW

A. Summary judgment is appropriate “when the pleadings and other evidence on file demonstrate that no ‘genuine issue as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law.’” Wood v. Safeway, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Additionally, “[t]he purpose of summary judgment ‘is to avoid a needless trial when an appropriate showing is made in advance that there is no genuine issue of fact to be tried, and the movant is entitled to judgment as a matter of law.’” McDonald v. D.P. Alexander & Las Vegas Boulevard, LLC, 121 Nev. 812, 815, 123 P.3d 748, 750 (2005) quoting Coray v. Home, 80 Nev. 39, 40-41, 389 P.2d 76, 77 (1964). Moreover, the non-moving party “must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against [it].” Wood, 121 Nev. at 32, 121 P.3d at 1031. The non-moving party “is not entitled to build a case on the gossamer threads of whimsy, speculation, and conjecture.” Id. Rather, the non-moving party must demonstrate specific facts as opposed to general allegations and conclusions. LaMantia v. Redisi, 118 Nev. 27, 29, 38 P.3d 877, 879 (2002); Wayment v. Holmes, 112 Nev. 232, 237, 912 P.2d 816, 819 (1996). Though inferences are to be drawn in favor of the non-moving party, an opponent to summary judgment, must show that it can produce evidence at trial to support its claim or defense. Van Cleave v. Kietz-Mill Minit Mart, 97 Nev. 414, 417, 633 P.2d 1220, 222 (1981).

B. While the moving party generally bears the burden of proving there is no genuine issue of material fact, in this case there are a number of presumptions that this Court must consider in deciding the issues, including:

1. That foreclosure sales and the resulting deeds are presumed valid. NRS 47.250(16)-(18) (stating that there are disputable presumptions “[t]hat the law has been obeyed[]”; “[t]hat a trustee or other person, whose duty it was to convey real property to a particular person, has actually conveyed to that person, when such presumption is necessary to perfect the title of such person or a successor in interest[]”; “[t]hat private transactions have been fair and regular”; and “[t]hat the ordinary course of business has



1       been followed.”).

2               2.       That a foreclosure deed “reciting compliance with notice provisions of  
3       NRS 116.31162 through NRS 116.31168 “is conclusive” as to the recitals “against the  
4       unit’s former owner, his or her heirs and assigns and all other persons.” SFR, 334 P.3d at  
5       411-12.

6               3.       That “[i]f the trustee’s deed recites that all statutory notice requirements  
7       and procedures required by law for the conduct of the foreclosure have been satisfied, a  
8       rebuttable presumption arises that the sale has been conducted regularly and properly;  
9       this presumption is conclusive as to a bona fide purchaser.” Moeller v. Lien, 30  
10      Cal.Rptr.2d 777, 783 (Ct. App. 1994); see also, 4 Miller & Starr, Cal. Real Estate (3d ed.  
11      2000) Deeds of Trust and Mortgages § 10:211, pp. 647-652; 2 Bernhardt, Cal. Mortgage  
12      and Deed of Trust Practice (Cont.Ed.Bar 2d ed. 1990) § 7:59, pp. 476-477).

13      C.       “A presumption not only fixes the burden of going forward with evidence, but it  
14      also shifts the burden of proof.” Yeager v. Harrah’s Club, Inc., 111 Nev. 830, 834, 897 P.2d  
15      1093, 1095 (1995)(citing Vancheri v. GNLV Corp., 105 Nev. 417, 421, 777 P.2d 366, 368  
16      (1989)). “These presumptions impose on the party against whom it is directed the burden of  
17      proving that the nonexistence of the presumed fact is more probable than its existence.” Id.  
18      (citing NRS 47.180).

19      D.       Thus, Chase bore the burden of proving it was more probable than not that the  
20      Association Foreclosure Sale and the resulting Foreclosure Deed were invalid.

21      E.       Chase has the burden to overcome the conclusive presumption of the foreclosure  
22      deed recitals with evidence of fraud, unfairness and oppression.

23      F.       Pursuant to the SFR Decision, NRS 116.3116(2) gives associations a true super-  
24      priority lien, the non-judicial foreclosure of which extinguishes a first deed of trust. SFR, 334  
25      P.3d at 419.

26      G.       According to the SFR Decision, “together, NRS 116.3116(1) and NRS  
27      116.31162 provide for the nonjudicial foreclosure of the whole of the HOA’s lien, not just the  
28      subpriority piece of it.” SFR, 334 P.3d at 414-15.



1 H. The Association foreclosure sale vested title in SFR "without equity or right of  
2 redemption." SFR, 334 P.3d at 419 (citing NRS 116.31166(3)).

3 I. "If the sale is properly, lawfully and fairly carried out, [the bank] cannot  
4 unilaterally create a right of redemption in [itself]." Golden v. Tomiyasu, 387 P.2d 989, 997  
5 (Nev. 1963).

6 J. As the SFR Decision did not announce a new rule of law but merely interpreted  
7 the provisions set forth in NRS 116 *et seq.*, it does not raise an issue of retroactivity. The SFR  
8 Decision provided "an authoritative statement of what the statute meant before as well as after  
9 the decision of the case giving rise to that construction." Morales-Izquierdo v. Dep't of  
10 Homeland Sec., 600 F.3d 1076, 1087 (9<sup>th</sup> Cir. 2010), overruled in part on other grounds by  
11 Garfias-Rodriguez v. Holder, 702 F.3d 504, 516 (9<sup>th</sup> Cir. 2010), quoting Rivers v. Roadway  
12 Express, Inc., 511 U.S. 298, 312-313 (1994). Thus, this Court rejects Chase's retroactivity  
13 argument.

14 K. NRS 116 does not require a purchaser at an association foreclosure sale be a  
15 bona fide purchaser, but in any case, without evidence to the contrary, when an association's  
16 foreclosure sale complies with the statutory foreclosure rules, as evident by the recorded notices  
17 and with the admission of knowledge of the sale, and without any facts to the contrary,  
18 knowledge of a FDOT and that Chase retained the ability to bring an equitable claim to  
19 challenge the foreclosure sale is not enough in itself to demonstrate that SFR took the property  
20 with notice of a potential dispute to title, the basis of which is unknown to SFR, and therefore,  
21 does is not sufficient to defeat SFR's ability to claim BFP status. Shadow Wood HOA v. N.Y.  
22 Cnty Bancorp, 132 Nev. \_\_\_\_\_, 366 P.3d 1105, 1116 (2016).

23 L. Shadow Wood reaffirmed Nevada's adoption of the California rule that  
24 "inadequacy of price, however gross, is not in itself a sufficient ground for setting aside a  
25 trustee's sale legally made; there must be in addition proof of some element of fraud, unfairness  
26 or oppression as accounts for and brings about the inadequacy of price[.]" Shadow Wood,  
27 2016 WL 347979 at\*5 (quoting Golden, 79 Nev. at 504 (internal citations omitted) (emphasis  
28 added)).

1 M. Because there is no suggestion of fraud, oppression or unfairness in the sale  
2 process or that SFR knowingly participated in fraud, oppression or unfairness in the sale, even if  
3 the purchase price paid by SFR was seen as inadequate or grossly inadequate, price alone is  
4 insufficient to invalidate the sale.

5 N. Chase admits it received the required notices and knew the sale had been  
6 scheduled, yet it did nothing to protect its interest in the Property. Furthermore, as a mere  
7 lienholder, as opposed to homeowner like the bank in Shadow Wood, Chase is not entitled to  
8 equitable relief as it has an adequate remedy at law for damages against any party that may have  
9 injured it. Las Vegas Valley Water Dist. V. Curtis Park Manor Water Users Ass'n, 646 P.2d  
10 549, 551 (Nev. 1982) ("courts lack authority to grant equitable relief when an adequate remedy  
11 at law exists."). Thus, even if this Court had found some facts suggesting fraud, unfairness or  
12 oppression, it would not need to weigh the equities. However, because Chase has presented no  
13 evidence, other than the alleged "low price" paid by SFR, suggesting that the sale was anything  
14 other than properly conducted, the Court would not need to weigh the equities in this case.

15 O. This Court did not make a determination as to Fannie Mae's interest in the  
16 property. The Court found that Chase lacks standing to enforce 12 U.S.C. § 4617(j)(3).

17 P. The Court rejects Chase's argument that an association must have accumulated  
18 either six or nine months of delinquent assessments before it can begin the foreclosure process.  
19 Nothing in NRS 116.3116 requires such, and the reference to six or nine months in NRS  
20 116.3116 refers only to the amount that would be prior to a first security interest. NRS  
21 116.3116(4) provides that the notice of delinquent assessments can be sent as early as ninety  
22 (90) days of a delinquency.

23 Q. Chase failed to demonstrate an exception to the voluntary payment doctrine: (a)  
24 coercion or duress caused by a business necessity, or (2) payment in defense of property.  
25 Nevada Association Services, Inc. v. The Eighth Judicial District, 130 Nev. \_\_\_\_, \_\_\_\_, 338 P.3d  
26 1250 (2014). Without showing one of these exceptions applies, one cannot recover voluntary  
27 payments. Best Buy Stores v. Benderson-Wainberg Assocs., 668 F.3d 1019, 1030 (8th Cir.  
28 2012) ("one who makes a payment voluntarily, cannot recover it on the ground that he was

1 under no legal obligation to make the payment."'). Here, Chase failed to provide any facts  
2 raising a material question as to whether any alleged payments were made under one of the  
3 exceptions.

4 R. The Deed of Trust was extinguished by the Association's foreclosure sale.

5 S. SFR is entitled to quiet title in its name free and clear of the Deed of Trust.

6 T. SFR is entitled to a permanent injunction enjoining Chase, its successors and  
7 assigns from taking any action on the extinguished *Deed of Trust. [Signature]*

8 **ORDER**

9 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the SFR MSJ is  
10 **GRANTED.**

11 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Deed of Trust  
12 recorded against the real property commonly known as 2824 Begonia Court, Henderson, NV  
13 89074; Parcel No. 177-12-410-074, was extinguished by the Association Foreclosure Sale.

14 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Chase, its  
15 predecessors in interest and its successors, agents, and assigns, have no further interest in real  
16 property located at 2824 Begonia Court, Henderson, NV 89074; Parcel No. 177-12-410-074  
17 and are hereby permanently enjoined from taking any further action to enforce the now  
18 extinguished Deed of Trust.

19 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that title to real  
20 property located 2824 Begonia Court, Henderson, NV 89074; Parcel No. 177-12-410-074 is  
21 hereby quieted in favor of SFR.

22 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that SFR is entitled to  
23 summary judgment on Chase's claim for unjust enrichment and that Chase is not entitled to relief  
24 as to that claim.

25 ///

26 ///

27 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that this Order shall  
28

KIM GILBERT EBRON  
7625 DEAN MARTIN DRIVE, SUITE 110  
LAS VEGAS, NV 89139  
(702) 485-3300 FAX (702) 485-3301

1 resolve all claims as to all parties.<sup>4</sup>

2 DATED this 25 day of October, 2016.

- A07/LAUX  
- ORDER granting  
STIPULATION  
FOR summary  
judgment

MS DISTRICT COURT JUDGE

3  
4  
5 Respectfully Submitted By:

6 **KIM GILBERT EBRON**

7   
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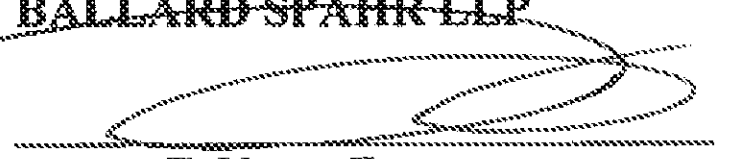
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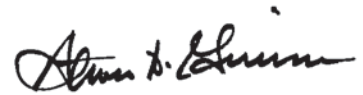
*Attorneys for JPMorgan Chase Bank,  
National Association*

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<sup>4</sup> SFR dismissed its claims against Bell by way of Stipulation and Order entered on August 6, 2014, notice of entry of which was served on August 8, 2014.

EXHIBIT 8

EXHIBIT 8



CLERK OF THE COURT

DIANA CLINE EBRON, ESQ.  
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*Attorneys for SFR Investments Pool 1, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association,

Case No. A-13-692202-C

Dept. No. XXIV

Plaintiff,

vs.

**NOTICE OF ENTRY OF ORDER  
GRANTING SFR INVESTMENTS POOL  
1, LLC'S MOTION FOR SUMMARY  
JUDGMENT**

SFR INVESTMENTS POOL 1, LLC, a  
Nevada limited liability company; DOES  
INDIVIDUALS 1 through 10; and ROE  
BUSINESS ENTITIES 1 through 10, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

PLEASE TAKE NOTICE that on October 26, 2016 this Court entered an **Order Granting SFR Investments Pool 1, LLC's Motion for Summary Judgment**. A copy of said Order is attached hereto.

DATED this 26<sup>th</sup> day of October, 2016.

**KIM GILBERT EBRON**

/s/ Diana Cline Ebron

DIANA CLINE EBRON, ESQ.

Nevada Bar No. 10580

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 26<sup>th</sup> day of October, 2016, pursuant to NRCP 5(b), I served via the Eighth Judicial District Court electronic filing system, the foregoing **NOTICE OF ENTRY OF ORDER GRANTING SFR INVESTMENTS POOL 1, LLC'S MOTION FOR SUMMARY JUDGMENT** to the following parties:

**Ballard Spahr**

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Mary Kay Carlton	<a href="mailto:carltonm@ballardspahr.com">carltonm@ballardspahr.com</a>

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/s/ Tomas Valerio  
An Employee of Kim Gilbert Ebron



CLERK OF THE COURT

**ORDER**  
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*Attorneys for SFR Investments Pool 1, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association,

Case No. A-13-692202-C

Plaintiff,

Dept. No. XXIV

vs.

SFR INVESTMENTS POOL 1, LLC, a  
Nevada limited liability company; DOES  
INDIVIDUALS 1 through 10; and ROE  
BUSINESS ENTITIES 1 through 10, inclusive,

**ORDER GRANTING SFR INVESTMENTS  
POOL 1, LLC'S MOTION FOR  
SUMMARY JUDGMENT**

Defendants.

AND ALL RELATED CLAIMS.

This matter came before the Court on SFR Investments Pool 1, LLC ("SFR") Motion for Summary Judgment ("SFR MSJ") filed on July 22, 2016, seeking judgment on its claims against JPMorgan Chase Bank, National Association ("Chase") for quiet title/declaratory relief and on Chase's claims against SFR for quiet title/declaratory relief and unjust enrichment. Chase filed its opposition to SFR's MSJ on August 8, 2016, and SFR filed its reply on August 15, 2016. Zachary Clayton, Esq. of Kim Gilbert Ebron appeared on behalf of SFR and Holly Priest, Esq. of Ballard Spahr LLP appeared on behalf of Chase. No other parties or counsel appeared.

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Debt(s)	<input type="checkbox"/> Judgment of Arbitration



1 Having reviewed and considered the full briefing and arguments of counsel, for the  
2 reasons stated on the record and in the pleadings, and good cause appearing, this Court makes the  
3 following findings of fact and conclusions of law.<sup>1</sup>

4 FINDINGS OF FACT

5 1. In 1991, Nevada adopted the Uniform Common Interest Ownership Act as NRS  
6 116, including NRS 116.3116(2).<sup>2</sup>

7 2. Kylan T. Bell took title to the real property commonly known as 2824 Begonia  
8 Court, Henderson, NV 89074; Parcel No. 177-12-410-074 (the "Property"), by way of a  
9 Grant, Bargain, sale Deed recorded as Instrument No. 199504210001512 on April 21, 1995.

10 3. On February 5, 2003, Eastbridge Gardens Condominiums' (the "Association"),  
11 recorded in the Official Records of the Clark County Recorder, its Second Restated Declaration  
12 of Covenants, Conditions and Restrictions ("CC&Rs") as Instrument No. 200202060001001 of  
13 the Official Records of the Clark County Recorder.<sup>3</sup>

14 4. On November 25, 2002, a Deed of Trust was recorded against the Property as  
15 Instrument No. 200211250002874 ("Deed of Trust"). The Deed of Trust was executed by Bell  
16 to secure a promissory note in the amount of \$68,000.00. The Deed of Trust designated  
17 Mortgage Electronic Registration Systems, Inc. ("MERS") as beneficiary in a nominee capacity  
18 for the original lender, Republic Mortgage, LLC, and the original lender's successors and  
19 assigns.

20 5. As part of the loan transaction, the original lender prepared and Bell signed, a  
21 Condominium Rider to the Deed of Trust, recognizing that the Property was located in a sub-  
22 common interest community within the Association.

23 6. On April 1, 2011, Nevada Association Services ("NAS") recorded on behalf of  
24 the Association a Notice of Delinquent Assessment Lien as Instrument No. 201104010001371

25 \_\_\_\_\_  
26 <sup>1</sup> Any findings of fact that are more appropriately conclusions of law shall be so deemed. Any conclusions  
27 of law that are more appropriately findings of fact shall be so deemed.

28 <sup>2</sup> Unless otherwise noted, the findings set forth herein are undisputed.

<sup>3</sup> When a document is stated to have been recorded, it refers to being recorded in the Official records of  
the Clark County Recorder.



1 ("NODA"). The NODA was mailed to Bell.

2 7. On May 31, 2012, NAS recorded on behalf of the Association a Notice of  
3 Trustee's Sale as Instrument No. 201206010001979 ("NOS"). The NOS was mailed to Chase  
4 and Bell. Chase admits receipt of the NOS. The NOS was posted and published pursuant to  
5 statutory requirements.

6 8. On September 21, 2012, NAS recorded on behalf of the Association a Notice of  
7 Default and Election to Sell Under Homeowners Association Lien as Instrument No.  
8 201109210000506 ("NOD"). The NOD was mailed to Chase and Bell.

9 9. On October 25, 2012, an Assignment of Deed of Trust was recorded as  
10 Instrument No. 201210250002057, pursuant to which MERS, in its capacity as beneficiary in a  
11 nominee capacity for the lender and the lender's successors and assigns, assigned the Deed of  
12 Trust to Chase.

13 10. On April 29, 2013, Assignment of First Deed of Trust to Chase Bank is re-  
14 recorded as Instrument No. 201304290002908.

15 11. On May 2, 2013, NAS sent on behalf of the Association a Second Notice of  
16 Trustee's Sale ("SNOS"). This notice was recorded as instrument No. 201305070000894. The  
17 SNOS was mailed to Chase and Bell. Chase admits receipt of the SNOS. The SNOS was posted  
18 and published pursuant to statutory requirements. Per the notice, the sale was set for May 31,  
19 2013.

20 12. On May 9, 2013, National Default Services Corp. ("NDSC") as trustee, recorded  
21 a Notice of Default and Election to Sell Under Deed of Trust, stating the Bell had become  
22 delinquent on payments under the note.

23 13. On May 31, 2013, NAS held the Association foreclosure sale at which SFR  
24 placed the highest bid of \$10,100.00 ("Association foreclosure sale").

25 14. The Trustee's Deed Upon Sale vesting title in SFR was recorded on June 10,  
26 2013 as Instrument No. 201306100002206. The Trustee's Deed included the following recitals:

27 This conveyance is made pursuant to the powers conferred upon [NAS] by  
28 Nevada Revised Statutes, the Eastbride Gardens Condominiums governing  
documents (CC&Rs) and that certain Notice of Delinquent Assessment Lien,



described herein. Default occurred as set forth in a Notice of Default and Election, recorded on 9/21/2011. . . . Nevada Association Services, Inc. has complied with all requirements of law including, but not limited to, the elapsing of 90 days, mailing of copies of [NODA] and [NOD] and the posting and publication of the Notice of Sale.

15. Chase is charged with knowledge of NRS 116 since its adoption in 1991.

16. Despite being fully aware of the Association's foreclosure sale, neither Chase, its predecessors in interest, nor their agents attempted to pay any amount of the Association's lien. Neither did they take any action to enjoin the sale or seek some intervention to determine an amount to pay.

17. In the Nevada Supreme Court's SFR Investments Pool I, LLC v. U.S. Bank, N.A., decision, the Court was unanimous in its interpretation that a homeowners association foreclosure sale could extinguish a first deed of trust, and the only disagreement being in whether the foreclosure could be non-judicial or must be judicial. 130 Nev. \_\_\_\_, 332 P.3d 408, 419 (2014) (majority holding and first paragraph of the concurring in part, dissenting in part by C.J. Gibbons) ("SFR Decision").

18. There is no suggestion of fraud, oppression or unfairness in the conduct of the sale. Thus, whether the price was inadequate or grossly inadequate, is immaterial.

19. In its opposition, Chase argued the loan was owned by the Federal National Mortgage Association ("Fannie Mae") and Chase was the servicer of the loan for Fannie Mae at the time of the subject HOA foreclosure sale. Chase further argued that due to Fannie Mae's interest, SFR's alleged interest was subject to the Deed of Trust pursuant to the Housing and Economic Recovery Act of 2008 ("HERA") specifically, 12 U.S.C. § 4617(j)(3).

20. In its reply, SFR argued that if the Court were to overturn the sale, the sale must be voided and that SFR cannot be made to take title subject to the Bank's Deed of Trust.

21. Chase also argued that the SFR Decision should not be applied retroactively.

22. Chase provided no evidence that its alleged payments for taxes or insurance were made in defense of property. There was no evidence that SFR was a named additional insured on any insurance policy on the Property obtained by Chase, nor did Chase provide evidence that the Property was in danger of being sold for delinquent taxes.



## CONCLUSIONS OF LAW

A. Summary judgment is appropriate "when the pleadings and other evidence on file demonstrate that no 'genuine issue as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law.'" Wood v. Safeway, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Additionally, "[t]he purpose of summary judgment 'is to avoid a needless trial when an appropriate showing is made in advance that there is no genuine issue of fact to be tried, and the movant is entitled to judgment as a matter of law.'" McDonald v. D.P. Alexander & Las Vegas Boulevard, LLC, 121 Nev. 812, 815, 123 P.3d 748, 750 (2005) quoting Coray v. Home, 80 Nev. 39, 40-41, 389 P.2d 76, 77 (1964). Moreover, the non-moving party "must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against [it]." Wood, 121 Nev. at 32, 121 P.3d at 1031. The non-moving party "is not entitled to build a case on the gossamer threads of whimsy, speculation, and conjecture." Id. Rather, the non-moving party must demonstrate specific facts as opposed to general allegations and conclusions. LaMantia v. Redisi, 118 Nev. 27, 29, 38 P.3d 877, 879 (2002); Wayment v. Holmes, 112 Nev. 232, 237, 912 P.2d 816, 819 (1996). Though inferences are to be drawn in favor of the non-moving party, an opponent to summary judgment, must show that it can produce evidence at trial to support its claim or defense. Van Cleave v. Kietz-Mill Minit Mart, 97 Nev. 414, 417, 633 P.2d 1220, 222 (1981).

B. While the moving party generally bears the burden of proving there is no genuine issue of material fact, in this case there are a number of presumptions that this Court must consider in deciding the issues, including:

1. That foreclosure sales and the resulting deeds are presumed valid. NRS 47.250(16)-(18) (stating that there are disputable presumptions "[t]hat the law has been obeyed[]"; "[t]hat a trustee or other person, whose duty it was to convey real property to a particular person, has actually conveyed to that person, when such presumption is necessary to perfect the title of such person or a successor in interest[]"; "[t]hat private transactions have been fair and regular"; and "[t]hat the ordinary course of business has



1       been followed.”).

2               2.       That a foreclosure deed “reciting compliance with notice provisions of  
3       NRS 116.31162 through NRS 116.31168 “is conclusive” as to the recitals “against the  
4       unit’s former owner, his or her heirs and assigns and all other persons.” SFR, 334 P.3d at  
5       411-12.

6               3.       That “[i]f the trustee’s deed recites that all statutory notice requirements  
7       and procedures required by law for the conduct of the foreclosure have been satisfied, a  
8       rebuttable presumption arises that the sale has been conducted regularly and properly;  
9       this presumption is conclusive as to a bona fide purchaser.” Moeller v. Lien, 30  
10      Cal.Rptr.2d 777, 783 (Ct. App. 1994); see also, 4 Miller & Starr, Cal. Real Estate (3d ed.  
11      2000) Deeds of Trust and Mortgages § 10:211, pp. 647-652; 2 Bernhardt, Cal. Mortgage  
12      and Deed of Trust Practice (Cont.Ed.Bar 2d ed. 1990) § 7:59, pp. 476-477).

13              C.       “A presumption not only fixes the burden of going forward with evidence, but it  
14      also shifts the burden of proof.” Yeager v. Harrah’s Club, Inc., 111 Nev. 830, 834, 897 P.2d  
15      1093, 1095 (1995)(citing Vancheri v. GNLV Corp., 105 Nev. 417, 421, 777 P.2d 366, 368  
16      (1989)). “These presumptions impose on the party against whom it is directed the burden of  
17      proving that the nonexistence of the presumed fact is more probable than its existence.” Id.  
18      (citing NRS 47.180).

19              D.       Thus, Chase bore the burden of proving it was more probable than not that the  
20      Association Foreclosure Sale and the resulting Foreclosure Deed were invalid.

21              E.       Chase has the burden to overcome the conclusive presumption of the foreclosure  
22      deed recitals with evidence of fraud, unfairness and oppression.

23              F.       Pursuant to the SFR Decision, NRS 116.3116(2) gives associations a true super-  
24      priority lien, the non-judicial foreclosure of which extinguishes a first deed of trust. SFR, 334  
25      P.3d at 419.

26              G.       According to the SFR Decision, “together, NRS 116.3116(1) and NRS  
27      116.31162 provide for the nonjudicial foreclosure of the whole of the HOA’s lien, not just the  
28      subpriority piece of it.” SFR, 334 P.3d at 414-15.



1 H. The Association foreclosure sale vested title in SFR "without equity or right of  
2 redemption." SFR, 334 P.3d at 419 (citing NRS 116.31166(3)).

3 I. "If the sale is properly, lawfully and fairly carried out, [the bank] cannot  
4 unilaterally create a right of redemption in [itself]." Golden v. Tomivasu, 387 P.2d 989, 997  
5 (Nev. 1963).

6 J. As the SFR Decision did not announce a new rule of law but merely interpreted  
7 the provisions set forth in NRS 116 *et seq.*, it does not raise an issue of retroactivity. The SFR  
8 Decision provided "'an authoritative statement of what the statute meant before as well as after  
9 the decision of the case giving rise to that construction.'" Morales-Izquierdo v. Dep't of  
10 Homeland Sec., 600 F.3d 1076, 1087 (9<sup>th</sup> Cir. 2010), overruled in part on other grounds by  
11 Garfias-Rodriguez v. Holder, 702 F.3d 504, 516 (9<sup>th</sup> Cir. 2010), quoting Rivers v. Roadway  
12 Express, Inc., 511 U.S. 298, 312-313 (1994). Thus, this Court rejects Chase's retroactivity  
13 argument.

14 K. NRS 116 does not require a purchaser at an association foreclosure sale be a  
15 bona fide purchaser, but in any case, without evidence to the contrary, when an association's  
16 foreclosure sale complies with the statutory foreclosure rules, as evident by the recorded notices  
17 and with the admission of knowledge of the sale, and without any facts to the contrary,  
18 knowledge of a FDOT and that Chase retained the ability to bring an equitable claim to  
19 challenge the foreclosure sale is not enough in itself to demonstrate that SFR took the property  
20 with notice of a potential dispute to title, the basis of which is unknown to SFR, and therefore,  
21 does is not sufficient to defeat SFR's ability to claim BFP status. Shadow Wood HOA v. N.Y.  
22 Cnty Bancorp, 132 Nev. \_\_\_\_, 366 P.3d 1105, 1116 (2016).

23 L. Shadow Wood reaffirmed Nevada's adoption of the California rule that  
24 "inadequacy of price, however gross, is not in itself a sufficient ground for setting aside a  
25 trustee's sale legally made; there must be in addition proof of some element of fraud, unfairness  
26 or oppression as accounts for and brings about the inadequacy of price[.]" Shadow Wood,  
27 2016 WL 347979 at\*5 (quoting Golden, 79 Nev. at 504 (internal citations omitted) (emphasis  
28 added)).



1 M. Because there is no suggestion of fraud, oppression or unfairness in the sale  
2 process or that SFR knowingly participated in fraud, oppression or unfairness in the sale, even if  
3 the purchase price paid by SFR was seen as inadequate or grossly inadequate, price alone is  
4 insufficient to invalidate the sale.

5 N. Chase admits it received the required notices and knew the sale had been  
6 scheduled, yet it did nothing to protect its interest in the Property. Furthermore, as a mere  
7 lienholder, as opposed to homeowner like the bank in Shadow Wood, Chase is not entitled to  
8 equitable relief as it has an adequate remedy at law for damages against any party that may have  
9 injured it. Las Vegas Valley Water Dist. V. Curtis Park Manor Water Users Ass'n, 646 P.2d  
10 549, 551 (Nev. 1982) ("courts lack authority to grant equitable relief when an adequate remedy  
11 at law exists."). Thus, even if this Court had found some facts suggesting fraud, unfairness or  
12 oppression, it would not need to weigh the equities. However, because Chase has presented no  
13 evidence, other than the alleged "low price" paid by SFR, suggesting that the sale was anything  
14 other than properly conducted, the Court would not need to weigh the equities in this case.

15 O. This Court did not make a determination as to Fannie Mae's interest in the  
16 property. The Court found that Chase lacks standing to enforce 12 U.S.C. § 4617(j)(3).

17 P. The Court rejects Chase's argument that an association must have accumulated  
18 either six or nine months of delinquent assessments before it can begin the foreclosure process.  
19 Nothing in NRS 116.3116 requires such, and the reference to six or nine months in NRS  
20 116.3116 refers only to the amount that would be prior to a first security interest. NRS  
21 116.3116(4) provides that the notice of delinquent assessments can be sent as early as ninety  
22 (90) days of a delinquency.

23 Q. Chase failed to demonstrate an exception to the voluntary payment doctrine: (a)  
24 coercion or duress caused by a business necessity, or (2) payment in defense of property.  
25 Nevada Association Services, Inc. v. The Eighth Judicial District, 130 Nev. \_\_\_\_, \_\_\_\_, 338 P.3d  
26 1250 (2014). Without showing one of these exceptions applies, one cannot recover voluntary  
27 payments. Best Buy Stores v. Benderson-Wainberg Assocs., 668 F.3d 1019, 1030 (8th Cir.  
28 2012) ("one who makes a payment voluntarily, cannot recover it on the ground that he was

1 under no legal obligation to make the payment."'). Here, Chase failed to provide any facts  
2 raising a material question as to whether any alleged payments were made under one of the  
3 exceptions.

4 R. The Deed of Trust was extinguished by the Association's foreclosure sale.

5 S. SFR is entitled to quiet title in its name free and clear of the Deed of Trust.

6 T. SFR is entitled to a permanent injunction enjoining Chase, its successors and  
7 assigns from taking any action on the extinguished *Deed of Trust. [Signature]*

8 ORDER

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the SFR MSJ is  
10 GRANTED.

11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Deed of Trust  
12 recorded against the real property commonly known as 2824 Begonia Court, Henderson, NV  
13 89074; Parcel No. 177-12-410-074, was extinguished by the Association Foreclosure Sale.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Chase, its  
15 predecessors in interest and its successors, agents, and assigns, have no further interest in real  
16 property located at 2824 Begonia Court, Henderson, NV 89074; Parcel No. 177-12-410-074  
17 and are hereby permanently enjoined from taking any further action to enforce the now  
18 extinguished Deed of Trust.

19 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that title to real  
20 property located 2824 Begonia Court, Henderson, NV 89074; Parcel No. 177-12-410-074 is  
21 hereby quieted in favor of SFR.

22 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that SFR is entitled to  
23 summary judgment on Chase's claim for unjust enrichment and that Chase is not entitled to relief  
24 as to that claim.

25 ///

26 ///


27 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Order shall  
28



1 resolve all claims as to all parties.<sup>4</sup>

2 DATED this 25 day of October, 2016.

- A072AUD  
- ORDER granting  
SFR motion  
for summary  
judgment

3  
4   
NS DISTRICT COURT JUDGE

5 Respectfully Submitted By:

Approved as to Form but Not Content By:

6 **KIM GILBERT EBRON**

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National Association

22  
23  
24  
25  
26  
27  
28 <sup>4</sup> SFR dismissed its claims against Bell by way of Stipulation and Order entered on August 6, 2014, notice of entry of which was served on August 8, 2014.

EXHIBIT 9

EXHIBIT 9

ORIGINAL

CLERK OF THE COURT

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8 *JPMorgan Chase Bank, N.A.*

9 DISTRICT COURT  
CLARK COUNTY, NEVADA

10 JPMORGAN CHASE BANK, NATIONAL )  
11 ASSOCIATION, a national association, )

CASE NO. A-13-692202-C

12 Plaintiff,

DEPT NO. XXIV

13 vs.

14 SFR INVESTMENTS POOL 1, LLC, a )  
Nevada Limited Liability company; DOES )  
15 I through X, ROE CORPORATIONS I )  
through X, inclusive, )

DISCOVERY COMMISSIONER'S  
REPORT AND RECOMMENDATION  
AS TO MOTION FOR PROTECTIVE  
ORDER RELATING TO RULE 30(b)(6)  
DEPOSITION OF SFR INVESTMENTS  
POOL 1, LLC

16 Defendants.

17  
18 SFR INVESTMENTS POOL 1, LLC a )  
Nevada limited liability company, )

19 Counter-Claimant/Cross-Claimant,

20 vs.

21 JPMORGAN CHASE BANK N.A., a )  
national association; KYLEEN T. BELL, )  
22 an individual; DOES I through X, ROE )  
23 CORPORATIONS I through X, inclusive, )

24 Counter-Defendant/Cross Defendants.

25  
26 DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS AS TO  
MOTION FOR PROTECTIVE ORDER RELATING TO RULE 30(b)(6) DEPOSITION OF  
27 SFR INVESTMENTS POOL 1, LLC  
28



1 HEARING DATE: June 13, 2016

2 APPEARANCES:

3 Plaintiff: BALLARD SPAHR LLP, Abran Vigil, Esq., appeared on behalf of  
4 JPMorgan Chase Bank, N.A. ("Chase").

5 Defendant: KIM GILBERT EBRON, Karen Hanks, Esq., appeared on behalf of  
6 SFR Investments Pool 1, LLC ("SFR").

7 I. FINDINGS

8 This matter came on for hearing pursuant to SFR's Motion for Protective  
9 Order Relating to Rule 30(b)(6) Deposition of SFR Investments Pool 1, LLC (the  
10 "Motion"), filed April 14, 2016. Chase opposed the Motion and filed an Opposition on  
11 May 9, 2016, to which SFR filed a Reply on May 18, 2016. A hearing was held on  
12 June 13, 2016, at which the Discovery Commissioner found that the Motion should be  
13 granted in part and denied in part as set forth in the below Recommendations.

14 II. RECOMMENDATIONS

15 IT IS HEREBY RECOMMENDED that SFR's Motion be GRANTED IN PART  
16 and DENIED IN PART, with the Rule 30(b)(6) deposition topics at issue in the  
17 Motion decided as follows:

18 Topic 1: Motion granted in part. Chase can inquire into these matters if  
19 strictly limited to the property at issue in this case.

20 Topic 9: Motion granted in part. Chase can inquire into these matters if  
21 strictly limited to the property at issue in this case.

22 Topic 10: Motion granted in part. Chase can inquire into what SFR intended  
23 to do with the property after SFR obtained it from the HOA foreclosure sale.

24 Topic 11: Motion denied. Chase can inquire into these matters.

25 Topic 12: Motion granted in part. Limited to the time of the sale of this  
26 particularly property.

27 Topic 13: Motion granted in part. Limited to the time of the sale of this  
28 particularly property.

Topic 14: Motion denied. Chase can inquire into these matters.

Topic 15: Motion granted in part. Chase can inquire into these matters as long as the questioning is limited to this case.

Topic 16: Motion granted part. Limited to as it relates to the sale in this case.

Topic 20: Motion granted.

Topic 22: Motion granted.

Topic 24: Motion granted.

Topic 25: SFR withdrew its objection as to this topic. Chase can inquire into these matters.

Topic 26: Motion granted in part. Chase cannot inquire into SFR's understanding of the legal effect of the Declaration of Value, but can ask factual questions.

DATED this 5<sup>th</sup> day of July 2016.


  
DISCOVERY COMMISSIONER


Respectfully submitted by:

Approved as to form and content by:

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A-13-692202 C

NOTICE

Pursuant to NRCF 16.1(d)(2), you are hereby notified you have (5) days from the date you receive this document within to file written objections.

Pursuant to E.D.C.R. 2.34(f) an objection must be filed and served no more than five (5) days after receipt of the Discovery Commissioner's Report. The Commissioner's Report is deemed received when signed and dated by a party, his attorney or his attorney's employee, or three (3) days after mailing to a party, his attorney, or three (3) days after the clerk of the court deposits a copy of the Report in a folder of the party's lawyer in the Clerk's office. See E.D.C.R. 2.34

A copy of the foregoing Discovery Commissioner's Report was:

\_\_\_\_\_ Mailed to Plaintiff/Defendants at the following address on the \_\_\_\_\_ of \_\_\_\_\_, 2016;

✓ \_\_\_\_\_ Placed in the folder of Plaintiffs/Defendant's counsel in the Clerk's office on the 6<sup>th</sup> day of July, 2016.

STEVEN D. GRIERSON

By Sandy Beach  
Deputy Clerk

The Court, having reviewed the above report and recommendations prepared by the Discovery Commissioner and,

\_\_\_\_ No timely objections having been received in the office of the Discovery Commissioner pursuant to E.D.C.R. 2.34 (f).

10 Having received the objections thereto and the written arguments in support of said objections, and good cause appearing,

\*\*\*

*[Signature]* IT IS HEREBY ORDERED that the Discovery Commissioner's Report and Recommendations are affirmed and adopted.

IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted as modified in the following manner (attached hereto).

IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report is set for \_\_\_\_\_, 2016, at \_\_\_\_\_: \_\_\_\_\_ a.m.

DISTRICT COURT JUDGE

Dated: 04.23.2016

Respectfully submitted by:

BALLARD SPAHR LLE

By:

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