

IN THE SUPREME COURT OF NEVADA

JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION, a
national association,

Appellant,

v.

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

Respondent.

Supreme Court No. 71822

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

Pursuant to NRAP 31(b)(3), appellant JPMorgan Chase Bank, N.A. (“Chase”) moves to extend the deadline for its opening brief and appendix to October 5, 2017. In support of this motion, Chase states as follows:

1. This is an appeal from a summary judgment order in favor of respondent SFR Investments Pool 1, LLC in a quiet title action arising from an HOA foreclosure sale.

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

3. In Bourne Valley Court Tr. v. Wells Fargo Bank, NA, 832 F.3d 1154 (9th Cir. 2016), the Ninth Circuit Court of Appeals held that a foreclosure sale

under NRS Chapter 116 involves sufficient state action to implicate the Due Process Clause of the Fourteenth Amendment. The Ninth Circuit further held that the notice provisions of Chapter 116 violate due process by requiring purported junior lienholders to affirmatively request notice of a Chapter 116 sale.

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

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

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

7. The Ninth Circuit heard oral arguments on this issue on February 17, 2017 in the cases Elmer v. JP Morgan Chase Bank, N.A., No. 15-17407, and Berezovsky v. Bank of Am., N.A., No. 16-15066.

8. This Court also heard oral arguments on this issue on March 7, 2017 in the case Nationstar Mortg., LLC v. SFR Invs. Pool 1, LLC, No. 69400.

9. A third issue raised by Chase's appeal is whether this Court's decision in SFR Invs. Pool 1, LLC v. U.S. Bank, N.A., 130 Nev. Adv. Rep. 75, 334 P.3d 408 (2014), applies retroactively to sales conducted before September 18, 2014.

10. The Court has scheduled oral arguments on this issue for May 1, 2017 in the case K & P Homes v. Christiana Trust, No. 69966.

11. Chase's opening brief and appendix were originally due April 5, 2017. Pursuant to NRAP 31(b)(1), Chase obtained a telephonic extension of the deadline to April 19, 2017.

12. Chase moves to extend the deadline for its opening brief and appendix to October 5, 2017, which is six months after the original deadline.

13. Chase makes this request in order to (1) allow the United States Supreme Court to decide the petitions for certiorari in Bourne Valley and Saticoy Bay relating to the constitutionality of NRS Chapter 116; (2) allow the Ninth Circuit to decide the appeals in Elmer and Berezovsky relating to 12 U.S.C. § 4617; (3) allow this Court to decide the appeal in Nationstar relating to 12 U.S.C.

§ 4617; and (4) allow this Court to decide the certified question in K & P Homes relating to the retroactive effect of SFR Invs.

14. Extending the deadline will provide time for the governing law to be clarified and will potentially narrow the issues to be briefed and decided in this appeal. Accordingly, there is good cause for the requested extension.

Dated: April 3, 2017.

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CERTIFICATE OF SERVICE

I certify that on April 3, 2017, I filed the foregoing *Motion to Extend Deadline to File Opening Brief and Appendix*. The following participants will be served electronically:

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