

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

JPMorgan Chase Bank, N.A., successor by
merger to Chase Home Finance LLC,

Appellant,

vs.

SFR Investments Pool 1, LLC,

Respondent.

No. 71839

DOCKETING

CIVIL APPEALS

Electronically Filed
Dec 28 2016 09:38 a.m.

Elizabeth A. Brown
Clerk of Supreme Court

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 27

County Clark Judge Nancy L. Allf

District Ct. Case No. A-12-672963-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 1076 Slate Crossing #2, Henderson, Nevada 89002 (the "Property"). SFR was the highest bidder at the foreclosure sale. Chase is the beneficiary of a deed of trust recorded against the Property. The deed of trust and underlying loan are insured by the Federal Housing Administration ("FHA"). Delaine L. Harned was the owner of the Property at the time of the sale. Plaintiff SFR brought a claim for "declaratory relief/quiet title" against Chase and 4 other defendants. It also brought a claim for "preliminary and permanent injunction" against Chase and 3 other defendants. SFR contends the sale extinguished Chase's deed of trust; Chase contends the deed of trust survived for various reasons. Chase also brought a counterclaim for unjust enrichment against SFR. Chase filed a motion with the district court to exclude the testimony of an appraiser retained by SFR. The court denied the motion. SFR later moved for summary judgment against Chase on all claims in SFR's complaint and Chase's counterclaim. 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) and 1(d) 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 27, 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

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)

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:
The district court's October 26, 2016 order enters summary judgment as to all claims between SFR and Chase. All other parties to the case have been voluntarily dismissed except for Venta Realty Group ("Venta"). In an order filed December 19, 2016, the district court certified the October 26, 2016 summary judgment order as a final judgment pursuant to N.R.C.P. 54(b).

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

(a) Parties:

Plaintiff/Counter-Defendant SFR Investments Pool 1, LLC ("SFR"); Defendant/Counter-Claimant JPMorgan Chase Bank, National Association ("Chase"); Defendant Venta Realty Group ("Venta"); Defendant California Reconveyance Company ("CRC"); Defendant National Default Servicing Corporation ("NDSC"); Defendant Paradise Court Homeowners Association ("Paradise Court"); Defendant Republic Silver State Disposal, Inc. ("Republic"); Defendant Delaine L. Harned

(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:

Defendants CRC, NDSC, Paradise Court, Republic, and Harned have been dismissed from the case. The district court has not yet entered a final judgment as to defendant Venta. However, the court has certified its summary judgment order in favor of SFR and against Chase as final pursuant to N.R.C.P. 54(b).

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.

SFR's complaint filed December 4, 2012 includes a claim for "declaratory relief/quiet title" against Harned, Venta, Chase, Republic, and Paradise Court. It also includes a claim for "preliminary and permanent injunction" against Venta, Chase, CRC, and NDSC. SFR dismissed Paradise Court on February 5, 2013; CRC on July 15, 2013; Republic on July 18, 2013; and NDSC and Harned on February 6, 2014. Chase filed a counterclaim for unjust enrichment against SFR on October 19, 2015. The court's October 26, 2016 order resolves all claims between SFR and Chase.

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:

SFR's claim for "declaratory relief/quiet title" and "preliminary and permanent injunction" against defendant Venta Realty Group.

(b) Specify the parties remaining below:
Defendant Venta Realty Group.

(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

December 28, 2016
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 28th 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 28th day of December, 2016

/s/ Sarah Walton
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 serviced by Chase and insured by the Federal Housing Administration (“FHA”)?
 - a. Do the provisions of NRS Chapter 116 governing notice to purported junior lienholders satisfy the requirements of due process?
 - b. Under the Supremacy and Property Clauses of the United States Constitution, can a foreclosure sale under NRS Chapter 116 extinguish a deed of trust insured by the FHA?
 - 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. 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)?
 - e. 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?
 - f. Did the district court abuse its discretion by deciding SFR’s motion for summary judgment before hearing Chase’s cross-motion for summary judgment and Chase’s objection to the discovery commissioner’s report and recommendation?
2. If, *arguendo*, the HOA foreclosure sale extinguished the deed of trust, did the district court err by entering summary judgment for SFR on Chase’s counterclaim for unjust enrichment?
3. Did the district court abuse its discretion by denying Chase’s motion to exclude the testimony of SFR’s appraiser?

EXHIBIT 2

EXHIBIT 2

Response to Question 10 – Pending Cases Raising the Same or Similar Issues

- Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortg., No. 68630 – Issue 1(a) from Chase’s Response to Question 9
- G&P Inv. Enters., LLC v. Mortg. Elec. Reg. Systems, Inc., No. 68842 – Issue 1(a)
- Chase Home Fin. LLC v. 10224 Black Friar Ct Trust, No. 69040 – Issue 1(a)
- Navy Fed. Credit Union v. Saticoy Bay LLC Series 1916 Summer Point, No. 69308 – 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(a)
- Citimortgage, Inc. v. SFR Invs. Pool 1, LLC, No. 70237 – Issues 1(a) and 1(d)
- JPMorgan Chase Bank, N.A. v. SFR Invs. Pool 1, LLC, No. 70423 – Issues 1(a), 1(c), 1(d), 1(e), and 2
- Nevada New Builds LLC v. Wells Fargo Bank, No. 70523 – Issues 1(a) & 1(c)
- JPMorgan Chase Bank, N.A. v. Holm International Properties, LLC, No. 70608 – Issues 1(a), 1(c), and 1(d)
- The Bank of New York Mellon v. NV Eagles, LLC, No. 70707 – Issues 1(a), 1(c), and 1(d)
- Deutsche Bank Nat’l Trust Co. v. Whittington Holdings 1, LLC, No. 70889 – Issues 1(a), 1(c), and 1(d)
- U.S. Bank Nat’l Ass’n v. Hillsboro Heights HOA, No. 71188 – Issues 1(a), 1(c), and 1(d)
- JPMorgan Mortg. v. Bourne Valley Court Trust, No. 71198 – Issues 1(a), 1(c), and 1(d)
- Wilmington Trust v. SFR Invs. Pool 1, LLC, No. 71236 – Issues 1(a), 1(c), 1(d), and 1(e)
- JPMorgan Chase Bank, Nat’l Ass’n v. SFR Invs. Pool 1, LLC, No. 71337 – Issues 1(a), 1(c), 1(d), 1(e), and 2
- Wells Fargo Bank, N.A. v. Radecki, No. 71405 – Issues 1(a), 1(c), 1(d), and 1(e)

- Wilmington Trust, N.A. v. Anthony S. Noonan IRA LLC, No. 71634 – Issues 1(a), 1(c), 1(d), and 1(e)
- Wilmington Trust, N.A. v. Holm International Properties, LLC, No. 71737 – Issues 1(a), 1(c), 1(d), and 1(e)
- JPMorgan Chase Bank, Nat'l Ass'n v. SFR Invs. Pool 1, LLC, No. 71822 – Issues 1(a), 1(c), 1(d), 1(e), and 2

EXHIBIT 3

EXHIBIT 3

I. Party InformationPlaintiff(s) (name/address/phone): SFR INVESTMENTS
POOL1, LLC

Attorney (name/address/phone):

Howard C. Kim, Esq. and Diana S. Cline, Esq., Howard Kim
and Associates, 400 North Stephanie St., Suite 160,
Henderson, Nevada 89014; (702) 485-3300

Defendant(s) (name/address/phone):

VENTA REALTY GROUP, JP MORGAN CHASE BANK,
N.A., successor by merger to CHASE HOME FINANCE LLC,
NATIONAL DEFAULT SERVICING CORPORATION,
CALIFORNIA RECONVEYANCE COMPANY, REPUBLIC
SILVER STATE DISPOSAL, INC., PARADISE COURT
HOMEOWNERS ASSOCIATION, and DELANIE L. HARNED

Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and
applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input checked="" type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input checked="" type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

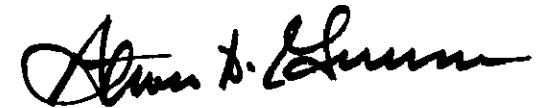
- | | | |
|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88 | <input type="checkbox"/> Investments (NRS 104 Art. 8) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90) | <input type="checkbox"/> Trademarks (NRS 600A) | |

12/4/12

Date

/s/ Diana S. Cline

Signature of initiating party or representative



CLERK OF THE COURT

COMP

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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL1, LLC a Nevada
limited liability company,

Plaintiff,

VENTA REALTY GROUP, a Nevada
corporation, JP MORGAN CHASE BANK,
N.A., a national association, successor by
merger to CHASE HOME FINANCE LLC, a
foreign limited liability corporation,
NATIONAL DEFAULT SERVICING
CORPORATION, an Arizona corporation,
CALIFORNIA RECONVEYANCE
COMPANY a California corporation,
REPUBLIC SILVER STATE DISPOSAL,
INC., a Nevada corporation, PARADISE
COURT HOMEOWNERS ASSOCIATION, a
Nevada non-profit corporation and DELANIE
L. HARNED, an individual, DOES I through
X; and ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No. **A- 12 - 672963 - C**

Dept. No. **XXVI I**

**COMPLAINT FOR QUIET TITLE AND
INJUNCTIVE RELIEF**

Arbitration Exemptions:

1. Action for Declaratory Relief
2. Action Concerning Real Property

Plaintiff SFR INVESTMENTS POOL 1, LLC ("SFR"), by and through its attorneys of
records, the law firm HOWARD KIM AND ASSOCIATES, hereby demands quiet title and
request injunctive relief against the above named defendants as follows:

///

///

I. PARTIES

1. Plaintiff 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 1076 Slate Crossing Lane #102, Henderson, Nevada 89002, Parcel No. 179-34-713-236, and legally described as Paradise Court, Plat Book 116, Page 33, Unit 2, Bldg 79 Clark County (the “Property”).

2. Upon information and belief, Defendant VENTA REALTY GROUP (“Venta”) is or was a Nevada corporation doing business as Venta Home Loans that recorded a deed of trust against the Property.

3. Upon information and belief, Defendant JP MORGAN CHASE BANK, N.A. (“JP Morgan Chase”), a national association, successor by merger to CHASE HOME FINANCE LLC, that may claim an interest in the Property through the deed of trust recorded by Defendant Venta.

4. Upon information and belief, CALIFORNIA RECONVEYANCE COMPANY (“California Reconveyance”) is a California corporation that was substituted as trustee of the deed of trust recorded by Defendant Venta and recorded non-judicial foreclosure notices on the Property.

5. Upon information and belief, Defendant NATIONAL DEFAULT SERVICING CORPORATION (“NDSC”) is an Arizona corporation that was substituted as trustee of the deed of trust recorded by Defendant Venta and recorded a non-judicial foreclosure notice on the Property.

6. Upon information and belief, PARADISE COURT HOMEOWNERS ASSOCIATION (“Paradise Court HOA”) is a Nevada non-profit corporation that filed a lien on the Property pursuant to NRS 116.3116 *et. seq.* and the Paradise Court HOA governing documents (“CC&R’s”).

7. Upon information and belief, REPUBLIC SILVER STATE DISPOSAL, INC. (“Republic”) is a Nevada corporation that filed several liens on the Property for waste collection services provided as contactor for the City of Henderson.

1 8. Upon information and belief, Defendant DELAINE L. HARNED (“Harned”) is an
2 individual residing in Nevada and the former title owner of the Property.

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

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

14 **II. GENERAL ALLEGATIONS**

15 **Plaintiff Acquired Title to the Property through Foreclosure of Super-Priority HOA Lien**

16 11. Plaintiff acquired the Property on September 21, 2012 by successfully bidding on the
17 Property at a publicly-held foreclosure auction in accordance with NRS 116.3116, *et. seq.*
18 (“HOA foreclosure sale”). Since the HOA foreclosure sale, Plaintiff has expended additional
19 funds and resources to improve and/or maintain the Property.

20 12. The resulting foreclosure deed was recorded in the Official Records of the Clark County
21 Recorder as Instrument Number 201209250001230 (“Foreclosure Deed”).

22 13. The foreclosure sale was conducted by Nevada Association Services (“NAS”), agent for
23 Paradise Court HOA, pursuant to the powers conferred by the Nevada Revised Statutes
24 116.3116, 116.31162, 116.31163 and 116.31164, the Paradise Court HOA governing documents
25 (CC&R’s) and a Notice of Delinquent Assessment Lien, recorded on February 5, 2010 in the
26 Official Records of the Clark County Recorder as Instrument Number 0001923 Book 20100205
27 (“HOA Lien”).

28 14. As recited in the Foreclosure Deed, the HOA foreclosure sale complied with all

requirements of law, including but not limited to, the elapsing of 90 days, recording and mailing of copies of Notice of Delinquent Assessment and Notice of Default, and the recording, posting and publication of the Notice of Sale.

15. Pursuant to NRS 116.3116(2), the entire HOA Lien

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

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

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

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

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

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

17. Upon information and belief, no party still claiming an interest in the Property recorded a lien or encumbrance prior to the declaration creating Paradise Court HOA.

18. Upon information and belief, Plaintiff's bid on the Property was in excess of the amount necessary to satisfy the costs of sale and the super-priority portion of the HOA Lien.

19. Upon information and belief, Paradise Court HOA or its agent NAS distributed or should have distributed the excess funds to lien holders in order of priority pursuant to NRS 116.3114(c).

20. Upon information and belief, the excess funds paid at the HOA foreclosure sale through its winning bid were used or should have been used to satisfy any liens for real estate taxes and other governmental assessments or charges against the Property.

21. Upon information and belief, prior to the HOA foreclosure sale, no individual or entity paid the full amount of delinquent assessments described in the HOA Lien and the Notice of

1 Default.

2 22. Upon information and belief, prior to the HOA foreclosure sale, no individual or entity
3 paid the super-priority portion of the HOA Lien representing 9 months of assessments for
4 common expenses based on the periodic budget adopted by the association which would have
5 become due in the absence of acceleration for the relevant time period.

6 23. Pursuant to NRS 116.31166, the foreclosure sale vested title in Plaintiff “without equity
7 or right of redemption,” and the Foreclosure Deed is conclusive against the Property’s “former
8 owner, his or her heirs and assigns, and **all other persons.**”

9 **Interests, Liens and Encumbrances Extinguished by the Super-Priority HOA Lien**

10 24. Upon information and belief, Defendant Harned obtained title to the Property in May of
11 2008 through a Grant Bargain Sale Deed from US Bank National Association.

12 25. On or about May 14, 2008, Defendant Venta recorded a deed of trust against the Property
13 in the Official Records of the Clark County Recorder as Instrument No. 200805140005041
14 (“Venta Deed of Trust”).

15 26. On or about November 29, 2010, Colleen Irby, as Assistant Secretary for Mortgage
16 Electronic Registration Systems, Inc. executed an assignment of the Venta Deed of Trust to
17 Chase Home Finance, LLC, which was later recorded on December 6, 2010 in the Official
18 Records of the Clark County Recorder as Instrument No. 201012060000315.

19 27. Also on or about November 29, 2010, Colleen Irby, as Vice President for Chase Home
20 Finance LLC executed a document substituting Defendant California Reconveyance as trustee of
21 the Venta Deed of Trust.

22 28. The substitution of trustee was later recorded on December 6, 2010 in the Official
23 Records of the Clark County Recorder as Instrument No. 201012060000316.

24 29. Defendant California Reconveyance recorded several non-judicial foreclosure notices on
25 the Property in 2010 and 2011.

26 30. On or about September 26, 2012, JP Morgan Chase Bank, National Association,
27 successor by merger to Chase Home Finance LLC executed a document substituting Defendant
28 NDSC as trustee of the Venta Deed of Trust.

31. On or about October 11, 2012, the substitution of trustee was recorded in the Official Records of the Clark County Recorder as Instrument No. 201210110001602.

32. On or about October 11, 2012, Defendant NDSC recorded in the Official Records of the Clark County Recorder as Instrument Number 201210110001603 a Notice of Trustee's Sale stating that the Property will be sold at a public auction pursuant to the terms of the Venta Deed of Trust on December 10, 2012 at 10:00 a.m.

33. On four separate occasions beginning on July 13, 2011, Defendant Republic recorded liens against the Property for waste collection services it provided as a contractor for the City of Henderson. The liens were recorded in the Official Records of the Clark County Recorder as Instrument Numbers 201107130002403, 201107140000902, 201112230005003, and 201210010005040 ("Waste Collection Liens").

34. Defendant Harned's ownership interest in the Property was extinguished by foreclosure of the HOA Lien.

35. Defendant Venta and Defendant JP Morgan Chase's interest in the Property, if any, via the Venta Deed of Trust was extinguished by the foreclosure of the super-priority portion of the HOA Lien.

36. Upon information and belief, Defendant Republic's interest in the Property via the Waste Collection Liens was or should have been satisfied by distribution of the proceeds Plaintiff paid at the HOA foreclosure sale or through payment by an interested party.

37. Defendant Paradise Court HOA's interest in the Property via the HOA Lien was extinguished by the foreclosure of the HOA Lien.

III. FIRST CLAIM FOR RELIEF

(Declaratory Relief/Quiet Title Pursuant to NRS 30.010, *et. seq.* and 116.3116, *et. seq.* against Defendants Harned, Venta, JP Morgan Chase, Republic, and Paradise Court HOA)

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

39. Pursuant to NRS 30.010, *et. seq.*, this Court has the power and authority to declare the Plaintiff's rights and interests in the Property and to resolve the Defendants' adverse claims in

1 the Property.

2 40. Plaintiff acquired the Property on September 21, 2012 by successfully bidding on the
3 Property at a publicly-held foreclosure auction in accordance with NRS 116.3116, *et. seq.* and
4 the resulting Foreclosure Deed vesting title in Plaintiff was recorded on September 25, 2012.

5 41. Defendant Harned, as previous title owner of the Property may assert a claim adverse to
6 Plaintiff.

7 42. Defendant Venta recorded the Venta Deed of Trust on the Property in 2008.

8 43. Upon information and belief, Defendant JP Morgan Chase may be claiming an interest in
9 the Property through the Venta Deed of Trust.

10 44. Upon information and belief, Defendant Republic may still be claiming an interest in the
11 Property via the Waste Collection Liens.

12 45. Upon information and belief, Defendant Paradise Court HOA may still be claiming an
13 interest in the Property via a portion of the HOA Lien.

14 46. A foreclosure sale conducted pursuant to NRS 116.31162, 116.31163 and 116.31164, like
15 all foreclosure sales, extinguishes the title owner's interest in the Property and all junior liens and
16 encumbrances, including deeds of trust.

17 47. Pursuant to NRS 116.3116(2), the super-priority portion of the HOA Lien has priority
18 over the Venta Deed of Trust.

19 48. Upon information and belief, the Waste Collection Liens and HOA Lien have been or
20 should have been extinguished or otherwise satisfied.

21 49. Defendants were duly notified of the HOA foreclosure sale and failed to act to protect
22 their interests in the Property, if any legitimately existed.

23 50. Plaintiff is entitled to a declaratory judgment from this Court finding that: (1) Plaintiff is
24 the title owner of the Property; (2) the Foreclosure Deed is valid and enforceable; (3) the HOA
25 foreclosure sale extinguished Defendants' security interests in the Property; and (4) Plaintiff's
26 rights and interest in the Property are superior to any adverse interest claimed by Defendants.

27 51. Plaintiff seeks an order from the Court quieting title to the Property in favor of Plaintiff.

28 ///

1 **IV. SECOND CLAIM FOR RELIEF**
2 **(Preliminary and Permanent Injunction against Defendants Venta, JP Morgan Chase,**
3 **California Reconveyance and NDSC)**

4 52. Plaintiff repeats and realleges the allegations of paragraphs 1- 51 as though fully set forth
herein and incorporate the same by reference.

5 53. Plaintiff properly acquired title to the Property at the HOA foreclosure sale on September
6 21, 2012.

7 54. Defendants Venta and/or JP Morgan Chase may claim an interest in the Property through
8 the Venta Deed of Trust which was extinguished by the HOA foreclosure sale.

9 55. Further, it is unclear from the public records whether JP Morgan Chase, California
10 Reconveyance or NDSC have authority to enforce the Venta Deed of Trust or the underlying
11 promissory note through a trustee's sale.

12 56. Defendants NDSC, California Reconveyance, Venta, and/or JP Morgan Chase may
13 improperly proceed with the non-judicial foreclosure of the Venta Deed of Trust and sell the
14 Property at a trustee's sale.

15 57. Upon information and belief, Defendants did not comply with the statutory notice
16 requirements for non-judicial foreclosure contained in NRS 107.080.

17 58. Any trustee's sale based on the Venta Deed of Trust would be invalid as Defendants lost
18 their interest in the Property, if any.

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

21 60. Plaintiff is entitled to a preliminary injunction and permanent injunction prohibiting
22 Defendants from initiating or continuing any foreclosure proceedings that would affect the title
23 to the Property.

24 **V. PRAYER FOR RELIEF**

25 Plaintiff requests judgment against Defendants as follows:

26 1. For a declaration and determination that SFR Investments Pool 1, LLC is
27 the rightful owner of title to the Property, and that Defendants be declared to have no
28 right, title or interest in the Property

HOWARD KIM & ASSOCIATES

400 N. STEPHANIE ST, SUITE 160

HENDERSON, NEVADA 89014

(702) 485-3300 FAX (702) 485-3301

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2. For a preliminary and permanent injunction that Defendants are prohibited from initiating or continuing foreclosure proceedings on the Property;

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

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

DATED December 4th, 2012.

HOWARD KIM & ASSOCIATES

/s/ Diana S. Cline

Howard C. Kim, Esq.

Nevada Bar No. 10386

Diana S. Cline, Esq.

Nevada Bar No. 10580

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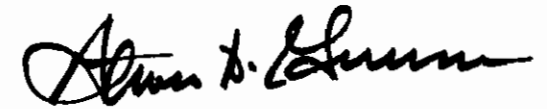
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Attorneys for Plaintiff

EXHIBIT 4

EXHIBIT 4



CLERK OF THE COURT

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9 *Attorneys for Defendant and Counterclaimant*

JPMorgan Chase Bank, N.A., as successor by

10 *merger to Chase Home Finance LLC*

11 DISTRICT COURT

12 CLARK COUNTY, NEVADA

13 SFR INVESTMENTS POOL1, LLC a
Nevada Limited liability company,

14 Plaintiff,

15 VENTA REALTY GROUP, a Nevada
16 Corporation, JP MORGAN CHASE
BANK, N.A., a national association,
17 successor by merger to CHASE HOME
FINANCE LLC, a foreign limited
18 liability corporation, NATIONAL
DEFAULT SERVICING
19 CORPORATION, an Arizona
corporation, CALIFORNIA
20 RECONVEYANCE COMPANY a
California corporation, REBULIC
21 SILVER STATE DISPOSAL, INC., a
Nevada corporation, PARADISE
22 COURT HOMEOWNERS
ASSOCIATION, a Nevada non-profit
23 corporation and DELANIE L.
HARNED, an individual, DOES I
24 through X; and ROE CORPORATIONS
I through X, inclusive,

25 Defendants.

CASE NO. A-12-672963-C
DEPT NO. 27

BALLARD SPAHR LLP
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LAS VEGAS, NEVADA 89106
(702) 471-7000 FAX (702) 471-7070

JPMORGAN CHASE BANK, N.A., as
successor by merger to Chase Home
Finance LLC,

Counter-Claimant,

vs.

SFR INVESTMENTS POOL 1, LLC a
Nevada Limited liability company

Counter-Defendant.

AMENDED ANSWER AND COUNTERCLAIM

JPMorgan Chase Bank, N.A., successor by merger with Chase Home Finance LLC ("Chase") hereby submits its amended Answer and Counterclaim to Plaintiff SFR Investment Pool 1, LLC's ("SFR") as follows:

I. PARTIES

1. Chase denies that SFR is the current title owner of the property commonly known as 1076 Slate Crossing Lane #102, Henderson, Nevada 89002; Parcel No. 179-34-713-236. Chase is without sufficient information to admit or deny the remaining allegations of Paragraph 1 of the Complaint and therefore denies them.

2. Chase is without sufficient information to admit or deny the allegations in Paragraph 2 of the Complaint and therefore denies them.

3. Chase admits the allegations of Paragraph 3 of the Complaint.

4. Chase is without sufficient information to admit or deny the allegations in Paragraph 4 of the Complaint and therefore denies them.

5. Chase admits the allegations of Paragraph 5 of the Complaint.

6. Chase submits that the lien and HOA governing documents recorded on the Property are public records that speak for themselves. Chase denies any allegation inconsistent with these records and is without sufficient information to admit or deny the remaining allegations of Paragraph 6 of the Complaint and

1 therefore denies them.

2 7. Chase is without sufficient information to admit or deny the allegations
3 in Paragraph 7 of the Complaint and therefore denies them.

4 8. Chase is without sufficient information to admit or deny the allegations
5 in Paragraph 8 of the Complaint and therefore denies them.

6 9. Chase is without sufficient information to admit or deny the allegations
7 in Paragraph 9 of the Complaint and therefore denies them.

8 10. Chase is without sufficient information to admit or deny the allegations
9 in Paragraph 10 of the Complaint and therefore denies them.

10 II. GENERAL ALLEGATIONS

11 11. Chase denies the allegations of Paragraph 11 of the Complaint.

12 12. Chase submits that the foreclosure deed recorded on the Property as
13 Instrument No. 201209250001230 is a public record that speaks for itself. Chase
14 denies any allegation inconsistent with this record and is without sufficient
15 information to admit or deny the remaining allegations of Paragraph 12 of the
16 Complaint and therefore denies them.

17 13. Chase submits that NRS 116.3116, 116.31162, 116.31163 and 116.31164
18 speak for themselves, and Chase denies the allegations of Paragraph 13 to the extent
19 they misstate the statutes' terms or fail to read them in conjunction with other
20 relevant laws, including the U.S. Constitution and the Nevada Constitution. Chase
21 further submits that the CC&R's and Notice of Delinquent Assessment Lien recorded
22 on the property are public records that speak for themselves. Chase denies any
23 allegation inconsistent with these records and are without sufficient information to
24 admit or deny the remaining allegations of Paragraph 13 of the Complaint and
25 therefore denies them.

26 14. Chase denies the allegations of Paragraph 14 of the Complaint.

27 15. Chase submits that NRS 116.3116(2) speaks for itself, and Chase denies
28 the allegations of Paragraph 15 to the extent they misstate the statute's terms or fail

1 to read them in conjunction with other relevant laws, including the U.S. Constitution
2 and the Nevada Constitution.

3 16. Chase submits that NRS 116.3116(2) speaks for itself, and Chase denies
4 the allegations of Paragraph 16 to the extent they misstate the statute's terms or fail
5 to read them in conjunction with other relevant laws, including the U.S. Constitution
6 and the Nevada Constitution.

7 17. Chase is without sufficient information to admit or deny the allegations
8 in Paragraph 17 of the Complaint and therefore denies them.

9 18. Chase is without sufficient information to admit or deny the allegations
10 in Paragraph 18 of the Complaint and therefore denies them.

11 19. Chase is without sufficient information to admit or deny the allegations
12 in Paragraph 19 of the Complaint and therefore denies them.

13 20. Chase is without sufficient information to admit or deny the allegations
14 in Paragraph 20 of the Complaint and therefore denies them.

15 21. Chase is without sufficient information to admit or deny the allegations
16 in Paragraph 21 of the Complaint and therefore denies them.

17 22. Chase is without sufficient information to admit or deny the allegations
18 in Paragraph 22 of the Complaint and therefore denies them.

19 23. Chase submits that NRS 116.31166 speaks for itself, and Chase denies
20 the allegations of Paragraph 23 to the extent they misstate the statute's terms or fail
21 to read them in conjunction with other relevant laws, including the U.S. Constitution
22 and the Nevada Constitution.

23 24. Chase admits the allegations of Paragraph 24 of the Complaint.

24 25. Chase admits the allegations of Paragraph 25 of the Complaint.

25 26. Chase submits that the assignment recorded on the Property as
26 Instrument No. 201012060000315 is a public record that speaks for itself. Chase
27 denies any allegation inconsistent with this record and is without sufficient
28 information to admit or deny the remaining allegations of Paragraph 26 of the

1 Complaint and therefore denies them.

2 27. Chase submits that the substitution recorded on the Property is a public
3 record that speaks for itself. Chase denies any allegation inconsistent with this
4 record and is without sufficient information to admit or deny the remaining
5 allegations of Paragraph 27 of the Complaint and therefore deny them.

6 28. Chase submits that the substitution recorded on the Property as
7 Instrument No. 201012060000316 is a public record that speaks for itself. Chase
8 denies any allegation inconsistent with this record and is without sufficient
9 information to admit or deny the remaining allegations of Paragraph 28 of the
10 Complaint and therefore denies them.

11 29. Chase submits that the notices recorded on the Property are public
12 records that speak for themselves. Chase denies any allegation inconsistent with
13 these records and is without sufficient information to admit or deny the remaining
14 allegations of Paragraph 29 of the Complaint and therefore denies them.

15 30. Chase submits that the substitution recorded on the Property is a public
16 record that speaks for itself. Chase denies any allegation inconsistent with this
17 record and is without sufficient information to admit or deny the remaining
18 allegations of Paragraph 30 of the Complaint and therefore denies them.

19 31. Chase submits that the substitution recorded on the Property as
20 Instrument No. 201210110001602 is a public record that speaks for itself. Chase
21 denies any allegation inconsistent with this record and is without sufficient
22 information to admit or deny the remaining allegations of Paragraph 31 of the
23 Complaint and therefore denies them.

24 32. Chase submits that the Notice of Trustee's Sale recorded on the
25 Property as Instrument No. 201210110001603 is a public record that speaks for
26 itself. Chase denies any allegation inconsistent with this record and is without
27 sufficient information to admit or deny the remaining allegations of Paragraph 32 of
28 the Complaint and therefore denies them.

1 44. Chase is without sufficient information to admit or deny the allegations
2 in Paragraph 44 of the Complaint and therefore denies them.

3 45. Chase is without sufficient information to admit or deny the allegations
4 in Paragraph 45 of the Complaint and therefore denies them.

5 46. Chase submits that NRS 116.31162, 116.31163 and 116.31164 speak for
6 themselves, and Chase denies the allegations of Paragraph 46 to the extent they
7 misstate the statutes' terms or fail to read them in conjunction with other relevant
8 laws, including the U.S. Constitution and the Nevada Constitution.

9 47. Chase submits that NRS 116.3116(2) speaks for itself, and Chase denies
10 the allegations of Paragraph 47 to the extent they misstate the statute's terms or fail
11 to read them in conjunction with other relevant laws, including the U.S. Constitution
12 and the Nevada Constitution.

13 48. Chase is without sufficient information to admit or deny the allegations
14 in Paragraph 48 of the Complaint and therefore denies them.

15 49. Chase denies the allegations of Paragraph 49 of the Complaint.

16 50. Chase denies the allegations of Paragraph 50 of the Complaint.

17 51. Chase admits that SFR is seeking an order from the Court quieting title
18 in its favor, but Chase denies that SFR is entitled to such an order.

19
20 **IV. SECOND CLAIM FOR RELIEF**
(Preliminary and Permanent Injunction Against Defendants Venta, JPMorgan
Chase, California Reconveyance and NDSC)

21
22 52. Chase repeats its answers contained in Paragraphs 1 through 51.

23 53. Chase denies the allegations of Paragraph 53 of the Complaint.

24 54. Chase admits it claims an interest in the Property through the
25 Venta Deed of trust, but denies the remaining allegations of Paragraph 54 of the
26 Complaint.

27 55. Chase denies the allegations of Paragraph 55 of the Complaint.

28 56. Chase denies the allegations of Paragraph 56 of the Complaint.

1 57. Chase denies the allegations of Paragraph 57 of the Complaint.

2 58. Chase denies the allegations of Paragraph 58 of the Complaint.

3 59. Chase denies the allegations of Paragraph 59 of the Complaint.

4 60. Chase denies the allegations of Paragraph 60 of the Complaint.

5 Unless expressly admitted in this Answer, Chase denies all other allegations
6 in SFR's Complaint, including, without limitation, any allegations suggested by the
7 Complaint's headings.

8 **AFFIRMATIVE DEFENSES:**

9 Chase is continuing to investigate SFR's claims and does not waive any
10 affirmative defenses. Chase reserves its right to amend this Answer and add any
11 subsequently discovered affirmative defenses or claims.

12 **First Affirmative Defense**

13 The Complaint fails to state a claim upon which relief can be granted.

14 **Second Affirmative Defense**

15 The acts alleged in the Complaint were the acts of third parties over whom
16 Chase has no control or responsibility.

17 **Third Affirmative Defense**

18 The alleged homeowner's association foreclosure sale was not reasonable, and
19 the circumstances of the sale of the property violated the Paradise Court
20 Homeowners Association's ("Association") obligation of good faith under NRS
21 116.1113 and duty to act in a reasonable manner.

22 **Fourth Affirmative Defense**

23 SFR purchased the property with notice of the interest of the senior deed of
24 trust recorded against the property and is not a bona fide purchaser for value.

25 **Fifth Affirmative Defense**

26 To the extent Chase has continued to expend funds and resources to maintain
27 and preserve the Property after the alleged Association foreclosure sale, its is entitled
28 to recoup those amounts.

1 **Sixth Affirmative Defense**

2 To the extent that SFR's interpretation of NRS § 116.3116 *et seq.* is accurate,
3 the statute and Chapter 116 as a whole are void for vagueness.

4 **Seventh Affirmative Defense**

5 SFR's claims are barred by the Due Process clause of the Nevada Constitution
6 and United States Constitution and the Takings Clause of the United State
7 Constitution.

8 **Eighth Affirmative Defense**

9 The claimed lien, including the super-priority portion of it and the sub-priority
10 portion of it, was satisfied prior to the Association foreclosure sale under the
11 doctrines of tender, estoppel, laches, or waiver.

12 **Ninth Affirmative Defense**

13 The Association foreclosure sale is void or otherwise insufficient to extinguish
14 the deed of trust based on the failure to provide proper notice of the "super-priority"
15 assessment amounts in accordance with the requirements of NRS Chapter 116,
16 federal law, and constitutional law.

17 **Tenth Affirmative Defense**

18 To the extent that this defense may become applicable after further
19 investigation and discovery, Chase asserts the Association foreclosure sale is void or
20 otherwise insufficient to extinguish the deed of trust based on the failure to provide
21 proper notice of the sale in accordance with the requirements of NRS Chapter 116.

22 **Eleventh Affirmative Defense**

23 The Association foreclosure sale is a voidable fraudulent transfer under the
24 Uniform Fraudulent Transfer Act (NRS 112.140 *et seq.*).

25 **Twelfth Affirmative Defense**

26 The Association foreclosure sale is void because the price paid at the sale was
27 grossly inadequate and because the manner in which the sale was conducted.
28

Thirteenth Affirmative Defense

Chase asserts that the Supremacy Clause and Property Clause of the Constitution of the United States bar the relief requested due to the Federal Housing Authorities' interest in the loan and preempt any state law to the contrary.

Fourteenth Affirmative Defense

SFR's claim of free and clear title to the Property is barred by 12 U.S.C. § 1721 (g)(3)(E)(iv), which precludes an Association foreclosure sale from extinguishing a deed of trust guaranteed by Government National Mortgage Association ("Ginnie Mae") and preempts any state law to the contrary.

COUNTERCLAIM

GENERAL ALLEGATIONS

1. On or about May 7, 2008, Delaine Harned obtained a loan from Venta Realty Group, dba Venta Home Loans in the amount of \$159,497, which was secured by a Deed of Trust (the "First Deed of Trust") recorded against real property commonly known as 1076 Slate Crossing Lane, #2, Henderson, NV 89002 (APN 179-34-713-236)(the "Property") on May 14, 2008, as Instrument No. 20080514005041, in the Office of the Clark County Recorder.

2. On December 6, 2010, an Assignment of the Deed of Trust was recorded on the Property as Instrument No. 201012060000315, in the Office of Clark County Recorder, assigning the First Deed of Trust to Chase.

3. On September 25, 2012, a Foreclosure Deed was recorded against the Property as Instrument No. 201209250001230, in the Office of the Clark County Recorder. The Foreclosure Deed purports to transfer title to the Property to SFR.

4. After September 25, 2012 Chase expended funds and resources to maintain and preserve the Property, including but not limited to funds for taxes and insurance.

5. Chase intended to benefit itself, not SFR, by expending funds and resources to maintain and preserve the Property.

1 6. At the time Chase expended funds and resources to maintain and
2 preserve the Property, Chase reasonably believed that its actions would benefit it,
3 not SFR.

4 **FIRST CLAIM FOR RELIEF**
 (Unjust Enrichment)

5 7. Chase repeats its allegations contained in Paragraphs 1 through 6.

6 8. SFR has been unjustly enriched, in that Chase continued to expend
7 funds and resources to maintain and preserve the Property to the benefit of SFR and
8 to the detriment of Chase, and contrary to fundamental principles of fairness, justice,
9 and fair dealing.

10 9. SFR appreciated the benefit conferred upon it and the continued
11 acceptance and retention of this benefit by Plaintiff is inequitable, without payment
12 to Chase.

13 10. Chase is entitled to recoup the reasonable amount of benefits obtained
14 by plaintiff based on the theory of unjust enrichment.

15 11. As a direct and proximate result of the foregoing, Chase has suffered
16 damages in an amount to be ascertained at trial as a result of SFR's unjust
17 enrichment.

18 12. Chase has been required to retain the services of attorneys to prosecute
19 this action, and has been damaged thereby, and is therefore entitled to recover from
20 Plaintiff its reasonable attorneys' fees and costs of suit incurred herein.

21 *[Remainder of page intentionally left blank.]*
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REQUEST FOR RELIEF

WHEREFORE, Chase requests the following relief:

1. That the Court make a judicial determination Chase's interest in the Property was not extinguished by the Association foreclosure sale;
2. That the Court make a judicial determination that Chase's interest is superior to the interest of SFR ;
3. That the Court make a judicial determination that SFR took title subject to Chase's ownership interest and/or Deed of Trust;
4. If it is determined that Chase's Deed of Trust has been extinguished by the Association foreclosure 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 Association foreclosure sale, whichever is greater;
5. That SFR recover nothing on account of its claims made in the Complaint;
6. For reasonable attorney's fees and costs; and
7. For any other relief that the Court deems just and proper in the case.

DATED this 19 day of October, 2015.

BALLARD SPAHR LLP

By: 

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Nevada Bar No. 7548
Lindsay Demaree
Nevada Bar No. 11949
Holly Ann Priest
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100 North City Parkway, Suite 1750
Las Vegas, Nevada 89106-4617

*Attorneys for Defendant JPMorgan Chase
Bank, N.A., as successor by merger to
Chase Home Finance LLC*

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 19 day of October 2015, and pursuant to N.R.C.P. 5(b), a true and correct copy of the foregoing Amended Answer to Counterclaim, was served to the parties following in the manner set forth below:

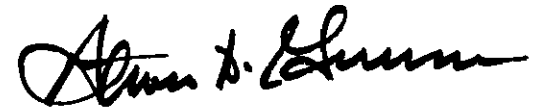
Howard Kim & Associates Howard C. Kim, Esq. Nevada Bar No. 10386 Diana S. Cline, Esq. Nevada Bar No. 10580 Jacqueline A. Gilbert, Esq. Nevada Bar No. 10593 1055 Whitney Ranch Drive, Suite 110 Henderson, Nevada 89014 Attorneys for SFR Investments Pool, LLC	
--	--

- ☐ HAND DELIVERY
- ☐ E-MAIL TRANSMISSION
- ☐ U.S. MAIL, POSTAGE PREPAID
- ☐ Certified Mail, Receipt No. _____,
Return receipt requested
- ☒ Via the Wiznet E-Service-generated "Service Notification of Filing" upon all counsel set up to receive notice via electronic service in this matter


An employee of BALLARD SPAHR LLP

EXHIBIT 5

EXHIBIT 5



CLERK OF THE COURT

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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL1, LLC a Nevada
limited liability company,

Plaintiff,

vs.

VENTA REALTY GROUP, a Nevada
corporation, JP MORGAN CHASE BANK,
N.A., a national association, successor by
merger to CHASE HOME FINANCE LLC, a
foreign limited liability corporation,
NATIONAL DEFAULT SERVICING
CORPORATION, an Arizona corporation,
CALIFORNIA RECONVEYANCE
COMPANY a California corporation,
REPUBLIC SILVER STATE DISPOSAL,
INC., a Nevada corporation, PARADISE
COURT HOMEOWNERS ASSOCIATION, a
Nevada non-profit corporation and DELANIE
L. HARNED, an individual, DOES I through
X; and ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No. A-12-672963-C

Dept. No. XXVII

**NOTICE OF VOLUNTARY DISMISSAL
OF PARADISE COURT HOMEOWNERS
ASSOCIATION**

PLEASE TAKE NOTICE Plaintiff SFR Investments Pool 1, LLC hereby voluntarily
dismisses Defendant Paradise Court Homeowner's Association ("Paradise Court HOA") without
prejudice pursuant to NRCP 41(a)(1)(i) which provides:

Subject to the provisions of Rule 23(e), of Rule 66, and of any statute, **an
action may be dismissed by the plaintiff upon repayment of defendants'**

HOWARD KIM & ASSOCIATES

400 N. STEPHANIE ST, SUITE 160
HENDERSON, NEVADA 89014
(702) 485-3300 FAX (702) 485-3301

1 **filing fees, without order of court (i) by filing a notice of dismissal at any**
2 **time before service by the adverse party of an answer or of a motion for**
3 **summary judgment, whichever first occurs,** or (ii) by filing a stipulation of
4 dismissal signed by all parties who have appeared in the action. Unless
5 otherwise stated in the notice of dismissal or stipulation, the dismissal is
6 without prejudice, except that a notice of dismissal operates as an adjudication
7 upon the merits when filed by a plaintiff who has once dismissed in any court
8 of the United States or of any state an action based on or including the same
9 claim.

10 (emphasis added).

11 Plaintiff bases its voluntary dismissal on Defendant Paradise Court HOA's representation
12 that it no longer claims an interest in the Property pursuant to the February 5, 2010. Upon
13 information and belief, Defendant Paradise Court HOA has not paid any filing fees and has not
14 served an answer or motion for summary judgment.

15 DATED this 5th day of February, 2013.

16 **HOWARD KIM & ASSOCIATES**

17 /s/ Diana S. Cline

18 Howard C. Kim, Esq.

19 Nevada Bar No. 10386

20 Diana S. Cline, Esq.

21 Nevada Bar No. 10580

22 400 N. Stephanie St., Suite 160

23 Henderson, Nevada 89014

24 Phone: (702) 485-3300

25 Fax: (702) 485-3301

26 *Attorneys for Plaintiff*

EXHIBIT 6

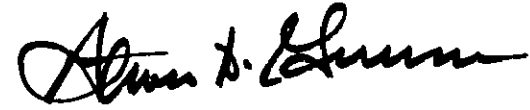
EXHIBIT 6

ORIGINAL

SAO

Kent F. Larsen, Esq.
Nevada Bar No. 3463
Chet A. Glover, Esq.
Nevada Bar No. 10054
SMITH LARSEN & WIXOM
Hills Center Business Park
1935 Village Center Circle
Las Vegas, Nevada 89134
Tel: (702) 252-5002
Fax: (702) 252-5006
Email: kfl@slwlaw.com
cag@slwlaw.com
Attorneys for Defendants
JPMorgan Chase Bank, N.A.,
as successor by merger with
Chase Home Finance LLC, and
California Reconveyance Company

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL1, LLC a Nevada
Limited liability company,

Plaintiff,

VENTA REALTY GROUP, a Nevada
Corporation, JP MORGAN CHASE BANK,
N.A., a national association, successor by
merger to CHASE HOME FINANCE LLC, a
foreign limited liability corporation,
NATIONAL DEFAULT SERVICING
CORPORATION, an Arizona corporation,
CALIFORNIA RECONVEYANCE
COMPANY a California corporation,
REBULIC SILVER STATE DISPOSAL,
INC., a Nevada corporation, PARADISE
COURT HOMEOWNERS ASSOCIATION, a
Nevada non-profit corporation and DELANIE
L. HARNED, an individual, DOES I through
X; and ROE CORPORATIONS I through X,
inclusive,

Defendants.

CASE NO. A-12-672963-C
DEPT NO. 27

**STIPULATION AND ORDER TO
DISMISS CALIFORNIA
RECONVEYANCE COMPANY,
WITHDRAW MOTION FOR
JUDGMENT ON THE PLEADINGS AND
TO STAY LITIGATION**

Plaintiff SFR Investments Pool 1, LLC. ("Plaintiff") and Defendants JPMorgan Chase
Bank, N.A. as successor by merger with Chase Home Finance LLC (incorrectly identified in the
Complaint as JP Morgan Chase Bank, N.A., successor by merger to Chase Home Finance LLC.)
("Chase") and California Reconveyance Company ("CRC") (collectively referred to as

1 “Defendants”), by and through their respective counsel, hereby agree and stipulate as follows:

2 **IT IS HEREBY AGREED AND STIPULATED** that CRC shall be dismissed from the
3 above-captioned case without prejudice, with each party to bear its own costs and attorney’s fees.

4 **IT IS FURTHER HEREBY AGREED AND STIPULATED** that Defendants’ Motion
5 for Judgment on the Pleadings, or in the alternative, Motion for Summary Judgment and Motion
6 to Expunge Lis Pendens (“Motions”) shall be withdrawn, without prejudice, and the hearing of
7 the Motions, currently set for July 17, 2013 at 10:00 a.m., shall be vacated.

8 **IT IS FURTHER HEREBY AGREED AND STIPULATED** that because (i) the
9 Supreme Court of Nevada has not ruled on the effect, if any, a foreclosure sale under NRS
10 Chapter 116 has on liens of record; (ii) there are multiple cases on appeal regarding this issue
11 (which is the primary issue in this litigation); and (iii) any dispositive ruling by this Court will
12 lead to an appeal; the litigation and discovery in the above-captioned matter shall be stayed until
13 further stipulation and order is submitted by the parties and executed by the Court, or by further
14 order of the Court.
15

16 **IT IS FURTHER HEREBY AGREED AND STIPULATED** that Plaintiff and Chase
17 will not foreclose upon, sell, transfer, assign, encumber, or otherwise attempt to dispossess any
18 title interest in the subject property – 1076 Slate Crossing Lane #2, Henderson, Nevada 89002,
19 APN 179-34-713-236 – during the pendency of this litigation, or without further order of this
20 Court.
21

22 ...
23

24 ...
25

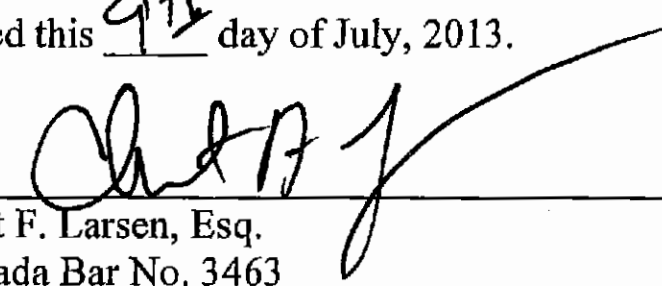
26 ...
27

28 ...
...

1 **IT IS FURTHER HEREBY STIPULATED AND AGREED** that nothing in this
 2 Stipulation and Order is intended to be, or will be, construed as an admission of the claims or
 3 defenses of the parties.

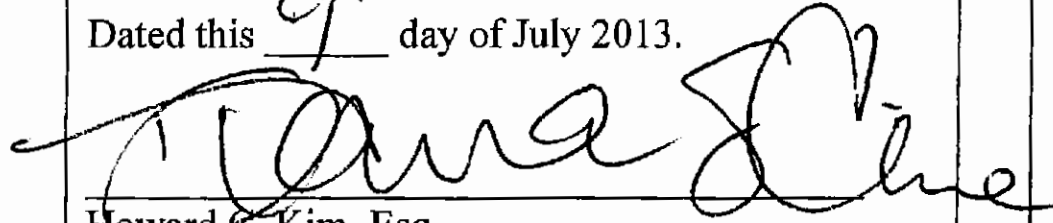
4 SMITH LARSEN & WIXOM

5 Dated this 9th day of July, 2013.

6 
 7 Kent F. Larsen, Esq.
 8 Nevada Bar No. 3463
 9 Chet A. Glover, Esq.
 10 Nevada Bar No. 10054
 11 1935 Village Center Circle
 12 Las Vegas, Nevada 89134
 13 Attorneys for Defendants
 14 JPMorgan Chase Bank, N.A.,
 15 as successor by merger with
 16 Chase Home Finance LLC, and
 17 California Reconveyance Company

HOWARD KIM & ASSOCIATES

Dated this 9th day of July 2013.


 Howard C. Kim, Esq.
 Nevada Bar No. 10386
 Diana S. Cline, Esq.
 Nevada Bar No. 10580
 Jacqueline A. Gilbert, Esq.
 Nevada Bar No. 10593
 400 N. Stephanie Street, Suite 160
 Henderson, Nevada 89014
 Attorneys for Plaintiff
 SFR Investments Pool 1, LLC.

ORDER

15 **IT IS SO ORDERED.**

16 Dated this 12 day of July, 2013.

18 
 19 DISTRICT JUDGE

20 Submitted by:

21 SMITH LARSEN & WIXOM

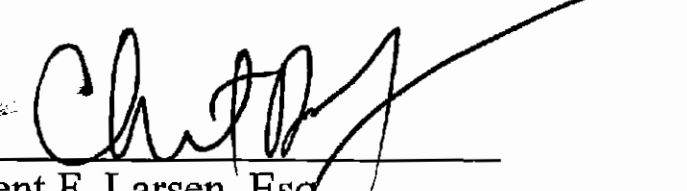
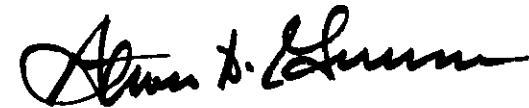
22 
 23 Kent F. Larsen, Esq.
 24 Nevada Bar No. 3463
 25 Chet A. Glover, Esq.
 26 Nevada Bar No. 10054
 27 1935 Village Center Circle
 28 Las Vegas, Nevada 89134
 Attorneys for Defendants

EXHIBIT 7

EXHIBIT 7



CLERK OF THE COURT

NEOJ

Kent F. Larsen, Esq.
Nevada Bar No. 3463
Chet A. Glover, Esq.
Nevada Bar No. 10054
SMITH LARSEN & WIXOM
Hills Center Business Park
1935 Village Center Circle
Las Vegas, Nevada 89134
Tel: (702) 252-5002
Fax: (702) 252-5006
Email: kfl@slwlaw.com
cag@slwlaw.com
Attorneys for Defendants
JPMorgan Chase Bank, N.A.,
as successor by merger to
Chase Home Finance LLC, and
California Reconveyance Company

DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL1, LLC a Nevada
Limited liability company,

Plaintiff,

VENTA REALTY GROUP, a Nevada
Corporation, JP MORGAN CHASE BANK,
N.A., a national association, successor by
merger to CHASE HOME FINANCE LLC, a
foreign limited liability corporation,
NATIONAL DEFAULT SERVICING
CORPORATION, an Arizona corporation,
CALIFORNIA RECONVEYANCE
COMPANY a California corporation,
REBULIC SILVER STATE DISPOSAL,
INC., a Nevada corporation, PARADISE
COURT HOMEOWNERS ASSOCIATION, a
Nevada non-profit corporation and DELANIE
L. HARNED, an individual, DOES I through
X; and ROE CORPORATIONS I through X,
inclusive,

Defendants.

CASE NO. A-12-672963-C
DEPT NO. 27

NOTICE OF ENTRY OF ORDER

NOTICE IS HEREBY GIVEN that the attached Stipulation and Order to Dismiss

California Reconveyance Company, Withdraw Motion for Judgment on the Pleadings and to Stay

Litigation was entered by the Court on the 15th day of July, 2013.

DATED this 17th day of July, 2013

SMITH LARSEN & WIXOM

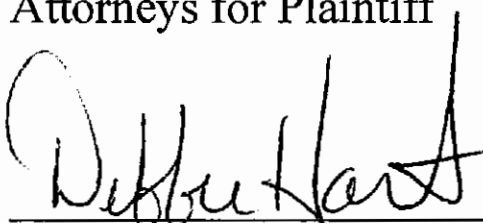
/s/ Chet A. Glover

Kent F. Larsen, Esq.
Nevada Bar No. 3463
Chet A. Glover, Esq.
Nevada Bar No. 10054
1935 Village Center Circle
Las Vegas, Nevada 89134
Attorneys for Defendants
JPMorgan Chase Bank, N.A.,
as successor by merger to
Chase Home Finance LLC, and
California Reconveyance Company

CERTIFICATE OF SERVICE BY MAIL

I HEREBY CERTIFY that on July 17, 2013 a true copy of the foregoing **NOTICE OF ENTRY OF ORDER** was mailed, postage prepaid, to the following as noted:

Howard C. Kim, Esq.
Diana S. Cline, Esq.
Jacqueline A. Gilbert, Esq.
HOWARD KIM & ASSOCIATES
400 N. Stephanie St., Suite 160
Henderson, NV 89014
Attorneys for Plaintiff

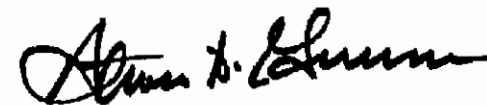

an employee of Smith Larsen & Wixom

ORIGINAL

SAO

Kent F. Larsen, Esq.
Nevada Bar No. 3463
Chet A. Glover, Esq.
Nevada Bar No. 10054
SMITH LARSEN & WIXOM
Hills Center Business Park
1935 Village Center Circle
Las Vegas, Nevada 89134
Tel: (702) 252-5002
Fax: (702) 252-5006
Email: kfl@slwlaw.com
cag@slwlaw.com
Attorneys for Defendants
JPMorgan Chase Bank, N.A.,
as successor by merger with
Chase Home Finance LLC, and
California Reconveyance Company

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL1, LLC a Nevada
Limited liability company,

Plaintiff,

VENTA REALTY GROUP, a Nevada
Corporation, JP MORGAN CHASE BANK,
N.A., a national association, successor by
merger to CHASE HOME FINANCE LLC, a
foreign limited liability corporation,
NATIONAL DEFAULT SERVICING
CORPORATION, an Arizona corporation,
CALIFORNIA RECONVEYANCE
COMPANY a California corporation,
REBULIC SILVER STATE DISPOSAL,
INC., a Nevada corporation, PARADISE
COURT HOMEOWNERS ASSOCIATION, a
Nevada non-profit corporation and DELANIE
L. HARNED, an individual, DOES I through
X; and ROE CORPORATIONS I through X,
inclusive,

Defendants.

CASE NO. A-12-672963-C
DEPT NO. 27

**STIPULATION AND ORDER TO
DISMISS CALIFORNIA
RECONVEYANCE COMPANY,
WITHDRAW MOTION FOR
JUDGMENT ON THE PLEADINGS AND
TO STAY LITIGATION**

Plaintiff SFR Investments Pool 1, LLC. ("Plaintiff") and Defendants JPMorgan Chase
Bank, N.A. as successor by merger with Chase Home Finance LLC (incorrectly identified in the
Complaint as JP Morgan Chase Bank, N.A., successor by merger to Chase Home Finance LLC.)
("Chase") and California Reconveyance Company ("CRC") (collectively referred to as

1 “Defendants”), by and through their respective counsel, hereby agree and stipulate as follows:

2 **IT IS HEREBY AGREED AND STIPULATED** that CRC shall be dismissed from the
3 above-captioned case without prejudice, with each party to bear its own costs and attorney’s fees.

4 **IT IS FURTHER HEREBY AGREED AND STIPULATED** that Defendants’ Motion
5 for Judgment on the Pleadings, or in the alternative, Motion for Summary Judgment and Motion
6 to Expunge Lis Pendens (“Motions”) shall be withdrawn, without prejudice, and the hearing of
7 the Motions, currently set for July 17, 2013 at 10:00 a.m., shall be vacated.

8 **IT IS FURTHER HEREBY AGREED AND STIPULATED** that because (i) the
9 Supreme Court of Nevada has not ruled on the effect, if any, a foreclosure sale under NRS
10 Chapter 116 has on liens of record; (ii) there are multiple cases on appeal regarding this issue
11 (which is the primary issue in this litigation); and (iii) any dispositive ruling by this Court will
12 lead to an appeal; the litigation and discovery in the above-captioned matter shall be stayed until
13 further stipulation and order is submitted by the parties and executed by the Court, or by further
14 order of the Court.
15

16 **IT IS FURTHER HEREBY AGREED AND STIPULATED** that Plaintiff and Chase
17 will not foreclose upon, sell, transfer, assign, encumber, or otherwise attempt to dispossess any
18 title interest in the subject property – 1076 Slate Crossing Lane #2, Henderson, Nevada 89002,
19 APN 179-34-713-236 – during the pendency of this litigation, or without further order of this
20 Court.
21

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

IT IS FURTHER HEREBY STIPULATED AND AGREED that nothing in this Stipulation and Order is intended to be, or will be, construed as an admission of the claims or defenses of the parties.

SMITH LARSEN & WIXOM

Dated this 9th day of July, 2013.

Kent F. Larsen, Esq.
Nevada Bar No. 3463
Chet A. Glover, Esq.
Nevada Bar No. 10054
1935 Village Center Circle
Las Vegas, Nevada 89134
Attorneys for Defendants
JPMorgan Chase Bank, N.A.,
as successor by merger with
Chase Home Finance LLC, and
California Reconveyance Company

HOWARD KIM & ASSOCIATES

Dated this 9th day of July 2013.

Howard C. Kim, Esq.
Nevada Bar No. 10386
Diana S. Cline, Esq.
Nevada Bar No. 10580
Jacqueline A. Gilbert, Esq.
Nevada Bar No. 10593
400 N. Stephanie Street, Suite 160
Henderson, Nevada 89014
Attorneys for Plaintiff
SFR Investments Pool 1, LLC.

ORDER

IT IS SO ORDERED.

Dated this 12 day of July, 2013.

Nancy L. Allie
DISTRICT JUDGE

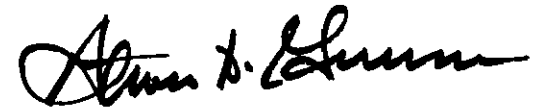
Submitted by:

SMITH LARSEN & WIXOM

Kent F. Larsen, Esq.
Nevada Bar No. 3463
Chet A. Glover, Esq.
Nevada Bar No. 10054
1935 Village Center Circle
Las Vegas, Nevada 89134
Attorneys for Defendants

EXHIBIT 8

EXHIBIT 8



CLERK OF THE COURT

NVD

HOWARD C. KIM, ESQ.
Nevada Bar No. 10386
E-mail: howard@hkimlaw.com
DIANA S. CLINE, ESQ.
Nevada Bar No. 10580
E-mail: diana@hkimlaw.com
VICTORIA L. HIGHTOWER, ESQ.
Nevada Bar No. 10897
E-mail: victoria@hkimlaw.com
HOWARD KIM & ASSOCIATES
400 N. Stephanie St, Suite 160
Henderson, Nevada 89014
Telephone: (702) 485-3300
Facsimile: (702) 485-3301
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL1, LLC a Nevada
limited liability company,

Plaintiff,

VENTA REALTY GROUP, a Nevada
corporation, JP MORGAN CHASE BANK,
N.A., a national association, successor by
merger to CHASE HOME FINANCE LLC, a
foreign limited liability corporation,
NATIONAL DEFAULT SERVICING
CORPORATION, an Arizona corporation,
CALIFORNIA RECONVEYANCE
COMPANY a California corporation,
REPUBLIC SILVER STATE DISPOSAL,
INC., a Nevada corporation, PARADISE
COURT HOMEOWNERS ASSOCIATION, a
Nevada non-profit corporation and DELANIE
L. HARNED, an individual, DOES I through
X; and ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No. A-12-672963-C

Dept. No. XXVII

**NOTICE OF VOLUNTARY DISMISSAL
OF REPUBLIC SILVER STATE
DISPOSAL, INC.**

PLEASE TAKE NOTICE Plaintiff SFR Investments Pool 1, LLC hereby voluntarily
dismisses Defendant REPUBLIC SILVER STATE DISPOSAL, INC., ("Republic") without
prejudice pursuant to NRCP 41(a)(1)(i) which provides:

Subject to the provisions of Rule 23(e), of Rule 66, and of any statute, **an
action may be dismissed by the plaintiff upon repayment of defendants'
filing fees, without order of court (i) by filing a notice of dismissal at any**

HOWARD KIM & ASSOCIATES

400 N. STEPHANIE ST, SUITE 160
HENDERSON, NEVADA 89014
(702) 485-3300 FAX (702) 485-3301

1 **time before service by the adverse party of an answer or of a motion for**
2 **summary judgment, whichever first occurs,** or (ii) by filing a stipulation of
3 dismissal signed by all parties who have appeared in the action. Unless
4 otherwise stated in the notice of dismissal or stipulation, the dismissal is
without prejudice, except that a notice of dismissal operates as an adjudication
upon the merits when filed by a plaintiff who has once dismissed in any court
of the United States or of any state an action based on or including the same
claim.

5 (emphasis added).

6 Upon information and belief, Defendant Republic has not paid any filing fees and has not
7 served an answer or motion for summary judgment.

8 DATED July 18, 2013.

HOWARD KIM & ASSOCIATES

9
10 /s/ Diana S. Cline
Howard C. Kim, Esq.
Nevada Bar No. 10386
Diana S. Cline, Esq.
Nevada Bar No. 10580
Victoria L. Hightower, Esq.
Nevada Bar No. 10897
400 N. Stephanie St., Suite 160
Henderson, Nevada 89014
Phone: (702) 485-3300
Fax: (702) 485-330

Attorneys for Plaintiff

17 **CERTIFICATE OF SERVICE**

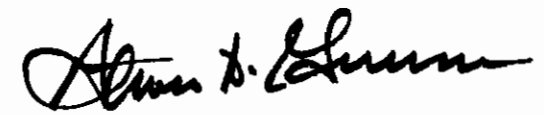
18 I HEREBY CERTIFY that on this 18th day of July, pursuant to NRCP 5(b), I served the
19 **NOTICE OF VOLUNTARY DISMISSAL OF REPUBLIC SILVER STATE DISPOSAL,**
INC. via first class mail, postage prepaid, to the following parties:

20 **REPUBLIC SILVER STATE DISPOSAL, INC.**
21 c/o Corporation Trust Company of Nevada
311 South Division Street
Carson City, NV 89703

23 /s/ Sarah Starkey
24 AN EMPLOYEE OF HOWARD KIM & ASSOCIATES

EXHIBIT 9

EXHIBIT 9



CLERK OF THE COURT

NVD

HOWARD C. KIM, ESQ.
Nevada Bar No. 10386
E-mail: howard@hkimlaw.com
DIANA S. CLINE, ESQ.
Nevada Bar No. 10580
E-mail: diana@hkimlaw.com
JACQUELINE A. GILBERT, ESQ.
Nevada Bar No. 10593
E-mail: jackie@hkimlaw.com
HOWARD KIM & ASSOCIATES
1055 Whitney Ranch Drive, Suite 110
Henderson, Nevada 89014
Telephone: (702) 485-3300
Facsimile: (702) 485-3301
Attorneys for SFR Investments Pool 1, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL1, LLC a Nevada
limited liability company,

Plaintiff,

VENTA REALTY GROUP, a Nevada
corporation, JP MORGAN CHASE BANK,
N.A., a national association, successor by
merger to CHASE HOME FINANCE LLC, a
foreign limited liability corporation,
NATIONAL DEFAULT SERVICING
CORPORATION, an Arizona corporation,
CALIFORNIA RECONVEYANCE
COMPANY a California corporation,
REPUBLIC SILVER STATE DISPOSAL,
INC., a Nevada corporation, PARADISE
COURT HOMEOWNERS ASSOCIATION, a
Nevada non-profit corporation and DELANIE
L. HARNED, an individual, DOES I through
X; and ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No. A-12-672963-C

Dept. No. XXVII

**NOTICE OF VOLUNTARY DISMISSAL OF
DEFENDANTS NATIONAL DEFAULT
SERVICING CORPORATION AND
DELANIE L. HARNED WITHOUT
PREJUDICE**

PLEASE TAKE NOTICE Plaintiff SFR Investments Pool 1, LLC hereby voluntarily
dismisses Defendants National Default Servicing Corporation and Delanie L. Harned
("Dismissing Defendants") without prejudice pursuant to NRCP 41(a)(1)(i) which provides:

Subject to the provisions of Rule 23(e), of Rule 66, and of any statute, **an
action may be dismissed by the plaintiff upon repayment of defendants'
filing fees, without order of court (i) by filing a notice of dismissal at any
time before service by the adverse party of an answer or of a motion for**

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

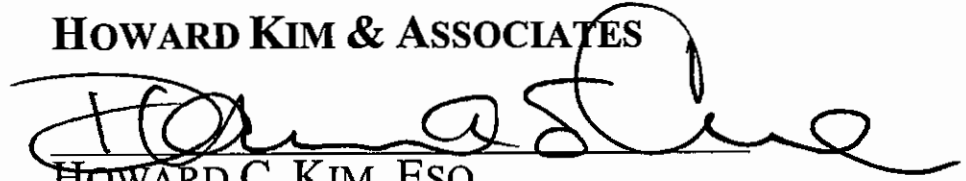
summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.

(emphasis added).

Upon information and belief, Dismissing Defendants have not paid any filing fees and have not served an answer or motion for summary judgment.

DATED this 5 day of February, 2014.

HOWARD KIM & ASSOCIATES



HOWARD C. KIM, ESQ.

Nevada Bar No. 10386

DIANA S. CLINE, ESQ.

Nevada Bar No. 10580

JACQUELINE A. GILBERT, ESQ.

Nevada Bar No. 10593

1055 Whitney Ranch Drive, Suite 110

Henderson, Nevada 89014

Telephone: (702) 485-3300

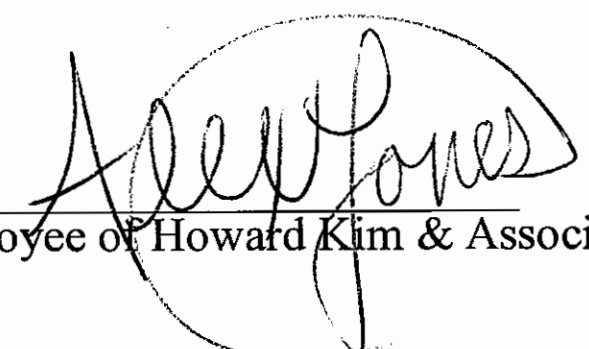
Facsimile: (702) 485-3301

Attorneys for SFR Investments Pool 1, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of February, 2014 pursuant to NRCP 5(b), I served the foregoing **NOTICE OF VOLUNTARY DISMISSAL OF DEFENDANTS NATIONAL DEFAULT SERVICING CORPORATION AND DELANIE L. HARNED WITHOUT PREJUDICE**, via first class mail, postage prepaid, to the following parties:

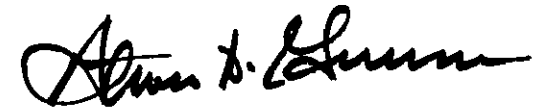
Kent Larsen, Esq.
Smith, Larsen & Wixom
1935 Village Center Circle
Las Vegas, Nevada 89134
Attorneys for Wells Fargo Bank



An Employee of Howard Kim & Associates

EXHIBIT 10

EXHIBIT 10



CLERK OF THE COURT

FFCO

DIANA CLINE EBRON, ESQ.

Nevada Bar No. 10580

E-mail: diana@kgelegal.com

JACQUELINE A. GILBERT, ESQ.

Nevada Bar No. 10593

E-mail: jackie@kgelegal.com

KAREN L. HANKS, ESQ.

Nevada Bar No. 9578

E-mail: karen@kgelegal.com

KIM GILBERT EBRON

7625 Dean Martin Drive, Suite 110

Las Vegas, Nevada 89139

Telephone: (702) 485-3300

Facsimile: (702) 485-3301

Attorneys for SFR Investments Pool 1, LLC

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

VENTA REALTY GROUP, a Nevada
corporation, JPMORGAN CHASE BANK,
N.A., a national association, successor by
merger to CHASE HOME FINANCE LLC, a
foreign limited liability corporation, ET AL.,

Defendants.

Case No. A-12-672963-C

Dept. No. XXVII

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER

JPMORGAN CHASE BANK, N.A., as
successor by merger to Chase Home Finance
LLC,

Counterclaimant,

vs.

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

Counter-defendant.

This matter came before the Court for hearing on September 15, 2016 at 9:30 a.m. on
SFR Investments Pool 1, LLC's ("SFR") motion for summary judgment on SFR's claims against

<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 JPMorgan Chase Bank, N.A., successor by merger to Chase Home Finance LLC ("Chase" or the
2 "Bank") and on Chase's counterclaims against SFR. Jacqueline A. Gilbert of the law firm of
3 Kim Gilbert Ebron appeared on behalf of SFR. Lindsay C. Demaree of the law firm of Ballard
4 Spahr, LLP appeared on behalf of Chase.

5 The Court, having considered the briefing on the motions, the pleadings and papers on
6 file herein, and argument of counsel, hereby finds and concludes as follows:¹

7 **FINDINGS OF UNDISPUTED FACT**

8 **The Property and Corresponding Foreclosure Sale**

9 1. Delaine L. Harned ("Harned") obtained title to real property commonly known as
10 1076 Slate Crossing #2, Henderson, Nevada 89002; Parcel No. 179-34-713-236 (the
11 "Property") by way of a Grant, Bargain, Sale Deed ("GBS Deed") from U.S. Bank National
12 Association, as Trustee, on behalf of the holders of the Home Equity asset Trust 2006-3 Home
13 Equity Pass Through Certificates, Series 2006-3 by Select Portfolio Servicing, its Attorney in
14 Fact. The GBS Deed was recorded in the Official Records of the Clark County Recorder on May
15 14, 2008 as Instrument No. 20080514-0005040.

16 2. Harned appears to have taken out a loan against the Property, executing a
17 promissory note, and the Deed of Trust ("First DOT") that secured the note in favor of was
18 recorded in the Official Records of the Clark County Recorder on May 14, 2008 as Instrument
19 No. 20080514-0005041. The First DOT named Mortgage Electronic Registration Systems
20 ("MERS") as the beneficiary on behalf of Venta Realty Group, dba Venta Home Loans, a
21 Nevada Corporation ("Venta"), the lender. The First DOT also included a Planned Unit
22 Development Rider that allowed the Lender to pay the Borrower's Association Assessment and
23 add that amount to the Borrower's debt to Lender.

24 3. The Property is located within the common interest community of Paradise Court
25 ("Association") as referenced in the First DOT. The Association recorded its Declaration of
26 Covenants, Conditions and Restrictions ("CC&Rs") in the Official Records of the Clark County
27

28 ¹ Any finding of fact that is more properly deemed a conclusion of law shall be so deemed.

1 Recorder on May 18, 2004 as Instrument No. 20040518-0001999. The CC&Rs include, *inter*
2 *alia*, the requirement that homeowners or members of the Association pay periodic assessments
3 to benefit the common-interest community. The CC&Rs also incorporate the provisions of NRS
4 116.3116 et seq. for non-payment of assessments. The First DOT also included a Planned Unit
5 Development Rider that allowed the Lender to pay the Borrower's Association Assessment and
6 add that amount to the Borrower's debt to Lender.

7 4. On February 5, 2010, Nevada Association Services ("NAS") on behalf of the
8 Association, recorded a Notice of Delinquent Assessment Lien against the Property. That notice
9 was recorded in the Official Records of the Clark County Recorder as Instrument No. 20100205-
10 0001923 (the operative NODA). The Operative NODA was mailed to Hamed.

11 5. MERS executed an Assignment of Deed of Trust ("Assignment") transferring all
12 beneficial interest in the First DOT and the underlying note to Chase. The Assignment was
13 recorded in the Official Records of the Clark County Recorder on December 6, 2010, as
14 Instrument No. 201012060000315.

15 6. The same day Chase recorded a Substitution of Trustee, naming California
16 Reconveyance Company ("CRC"), as Instrument No. 201012060000316. Immediately
17 thereafter, CRC recorded a Notice of Default and Election to Sell Under Deed of Trust ("Bank
18 NOD"), as Instrument No. 201012060000317.

19 7. CRC recorded a Foreclosure Mediation Certificate on April 12, 2011, as
20 Instrument No. 201104120001990, stating that Chase could proceed with the foreclosure
21 process.

22 8. CRC recorded a Notice of Trustee's sale on June 1, 2011, as Instrument No.
23 201106010003269, giving a sale date of June 21, 2011. The sale apparently did not take place
24 that day, and on September 29, 2011, CRC recorded another Notice of Trustee's Sale as
25 Instrument No. 201109290003457, giving a sale date of October 20, 2011. The sale apparently
26 did not take place that day.

27 9. On March 7, 2012, NAS recorded on behalf of the Association, a Notice of
28 Default and Election to Sell Under Homeowners Association Lien ("Association NOD"), as

1 Instrument No. 201203070000441. The Association NOD was mailed to Harned, Venta, Chase,
2 CRC, and MERS. The Bank does not dispute receiving the Association NOD.

3 10. Chase did not attempt to pay the Association after receiving the Association
4 NOD.

5 11. On May 25, 2012, Chase sent a letter to Harned advising her that she should
6 correct the situation or Chase may initiate appropriate actions to bring the account current per the
7 terms of the mortgage.

8 12. On August 30, 2012, more than ninety days after recording of the Association
9 NOD, NAS recorded a Notice of Trustee's Sale ("Association NOS"), as Instrument No.
10 20120830-0003067, giving September 21, 2012 as the sale date. This Association NOS was
11 mailed to Harned, Venta, Chase, CRC and MERS. Chase received the Association NOS and does
12 not dispute this. The NOS included the following language in larger font than the remainder of
13 the notice: "WARNING! A SALE OF YOUR PROPERTY IS IMMINENT!
14 UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE
15 THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE
16 AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE." The
17 NOS included the contact information for NAS, as agent for the Association. The NOS stated
18 that the sale would take place on November 30, 2012 at 10:00 a.m. and provided the location of
19 the sale. The NOS also stated in all capital letters: "UNLESS YOU TAKE ACTION TO
20 PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE." Chase appears to
21 have taken no action after receipt of the Association NOS.

22 13. The Association NOS was properly posted and published pursuant to NRS
23 116.311635.

24 14. The Association auction took place on September 21, 2012 ("Association
25 Foreclosure Sale"). At that sale, SFR placed a winning bid of \$6,100.00. There were multiple
26 bidders in attendance at the sale. No one acting on behalf of the Bank attended the Association
27 Foreclosure Sale.

28 15. The Foreclosure Deed vesting title in SFR was recorded in the Official Records of

1 the Clark County Recorder on September 25, 2012 as Instrument No. 20120925-0001230
2 ("Foreclosure Deed"). The Foreclosure Deed included the following recitals:

3
4 This conveyance is made pursuant to the powers conferred upon agent by Nevada
5 Revised Statutes, the Paradise Court governing documents (CC&R's) and that
6 certain Notice of Delinquent Assessment Lien, described herein [recorded
7 February 5, 2010]. Default occurred as set forth in a Notice of Default and
8 Election to Sell, recorded on 3/7/2012 as instrument # 0000441 Book 10120307
9 which was recorded in the office of the recorder of said county. 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 Notice of
Delinquent Assessment and Notice of Default and the posting and publication of
the Notice of Sale. Said property was sold by said agent, on behalf of Paradise
Court at public auction on 9/21/2012, at the place indicated on the Notice of Sale.

10 16. The Bank did not make any payments to the Association or its agent, NAS, prior
11 to the Association Foreclosure Sale nor did the Bank challenge the Association Foreclosure Sale
12 in any administrative or civil proceeding prior to filing its complaint in this case.

13 Chase Attempts to Foreclose Yet Again

14 17. On October 11, 2012, Chase substituted National Default Servicing Corporation
15 ("NDSC") in place of CRC via Instrument No. 20121011-0001602. NDSC immediately filed a
16 Notice of Trustee's Sale Under Deed of Trust as Instrument No. 20121011-0001603.

17 The Lawsuit and Arguments of the Parties

18 18. On December 4, 2012, SFR filed its complaint for quiet title and declaratory relief
19 against Chase, Harned, Venta, Republic Silver State Disposal, Inc., and the Association, alleging
20 that the Association Foreclosure Sale extinguished the defendants' interest in the Property. SFR
21 also sought injunctive relief against Venta, Chase, CRC and NDSC to prevent them from taking
22 any action to foreclose on, sell, convey, or otherwise enforce any interest against the Property.

23 19. Chase answered SFR's complaint on January 25, 2013. SFR voluntarily dismissed
24 the Association, CRC, Republic Silver State Disposal, and NDSC by notice or stipulations
25 entered on February 5, 2013, July 15, 2013, July 18, 2013, and February 6, 2014 respectively.

26 20. Default was entered against Venta on May 14, 2015.

27 21. On September 18, 2014, the Nevada Supreme Court issued its decision in *SFR*
28 *Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. _____, 334 P.3d 408 (2014) ("SFR

1 *Decision*”), holding that a properly conducted association foreclosure sale will extinguish a first
2 deed of trust.

3 22. On October 19, 2015, Chase filed an amended answer and counterclaim, asserting
4 a claim for unjust enrichment against SFR.

5 23. SFR filed its answer to the counterclaim on November 6, 2015.

6 24. SFR filed its motion for summary judgment on August 11, 2016, seeking
7 judgment on all claims against Chase.

8 25. Chase filed its motion for summary judgment on September 13, 2016.

9 26. In SFR’s motion for summary judgment

10 27. In its motion for summary judgment, SFR argued, *inter alia*, that (1) the Association
11 Foreclosure Sale extinguished the First DOT and Chase’s interest in the Property, and that the
12 conclusive proof in the Association Foreclosure Deed and presumptions under NRS 47.250 shift
13 the burden to Chase to show that the Association Foreclosure Sale was somehow improper; (2)
14 Chase, as a lienholder, is not entitled to an equitable remedy; (3) the Association Foreclosure
15 Sale vested title in SFR without equity or right of redemption; (4) the Association Foreclosure
16 Sale was commercially reasonable; (4) even if there were irregularities with the sale, they could
17 not be imputed to SFR because SFR is a bona fide purchaser for value; (5) any claims by Chase
18 against the sale are barred by laches; d (6) Chase’s unjust enrichment claim failed under the
19 voluntary payment doctrine; and (7) Chase lacks standing to raise either the Supremacy Clause
20 or Property Clause based on the loan allegedly being FHA insured to challenge the Association
21 Foreclosure Sale and that even if able to raise it, there is no preemption, express or implied.

22 28. In opposition, Chase argued, *inter alia*, that (1) the Association’s CC&Rs
23 mortgage protection clause precluded extinguishment and there were material questions of fact
24 as to SFR’s BFP status; (2) NRS 116 (the “Statute”) is unconstitutional on its face as it does not
25 require homeowner’s associations to provide known lienholders with actual notice prior to
26 extinguishing their liens, in violation of the minimum requirements for due process under the
27 United States and Nevada constitutions, relying heavily on the analysis in the recent Ninth
28 Circuit decision in *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, No. 15-15233, 2016

1 WL 4254983 (9th Cir. Aug. 12, 2016); (3) because the loan was FHA insured, the supremacy
2 clause and property clauses preempt NRS 116; (4) the *SFR Decision* does not apply to this case
3 because the Association Foreclosure Sale took place on September 21, 2012 and the *SFR*
4 *Decision* does not apply retroactively; (5) the Association Foreclosure sale was "tainted" by
5 unfairness and Chase is entitled to equitable relief; (6) the price paid at the Association
6 Foreclosure sale was "grossly inadequate" and that is enough to void the sale; (7) laches does not
7 apply; and (8) the voluntary payment doctrine does not apply or equity requires payment to
8 Chase on its unjust enrichment claim.

9 29. SFR's reply addressed its arguments regarding Bourne Valley and
10 constitutionality, the supremacy and property clauses as relating to FHA insurance, commercial
11 reasonableness, retroactively, applying equities pursuant to *Shadow Wood HOA v. N.Y. Cmty.*
12 *Bancorp*, 132 Nev. ____, 366 P.3d 1105 (2016), and unjust enrichment.

13 30. At the hearing, Chase requested that the hearing be continued until its motion for
14 summary judgment could be heard. The Court finds that this was not necessary as all claims
15 were addressed in SFR's motion and therefore denied Chase's oral motion to continue.

16 CONCLUSIONS OF LAW

17 Summary judgment is appropriate and "shall be rendered forthwith" when the pleadings
18 and other evidence on file demonstrate no "genuine issue as to any material fact [remains] and
19 that the moving party is entitled to a judgment as a matter of law." NRCP 56(c); *Wood v.*
20 *Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Declaratory or equitable relief
21 may be adjudicated on summary judgment. *Shadow Wood*, 366 P.3d at 1111. "The substantive
22 law controls which factual disputes are material and will preclude summary judgment; other
23 factual disputes are irrelevant." *Wood*, 121 Nev. at 731, 121 P.3d at 1031. "A factual dispute is
24 genuine when the evidence is such that a rational trier of fact could return a verdict for the non-
25 moving party." *Id.* While the pleadings and other proof must be construed in a light most
26 favorable to the non-moving party, that party bears the burden "to do more than simply show
27 that there is some metaphysical doubt" as to the operative facts in order to avoid summary
28 judgment being entered in the moving party's favor. *Matsushita Electric Industrial Co. v.*

1 *Zenith Radio*, 475 U.S. 574, 586 (1986), *cited in Wood*, 121 Nev. at 732, 121 P.3d at 1031. The
2 non-moving party "must, by affidavit or otherwise, set forth specific facts demonstrating the
3 existence of a genuine issue for trial or have summary judgment entered against him." *Bulbman*
4 *Inc. v. Nevada Bell*, 108 Nev. 105, 110, 828 P.2d 588, 591 (1992), *cited in Wood*, 121 Nev. at
5 732, 121 P.3d at 1031. The non-moving party "is not entitled to build a case on the gossamer
6 threads of whimsy, speculation, and conjecture." *Bulbman*, 108 Nev. at 110, 825 P.2d 591,
7 *quoting Collins v. Union Fed. Savings & Loan*, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983).

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

11 1. That foreclosure sales and the resulting deeds are presumed valid. NRS
12 47.250(16-18) (stating that there are disputable presumptions "that the law has been obeyed";
13 "that a trustee or other person, whose duty it was to convey real property to a particular person,
14 has actually conveyed to that person, when such presumption is necessary to perfect the title of
15 such person or a successor in interest"; "that private transactions have been fair and regular";
16 and "that the ordinary course of business has been followed.")

17 2. That a foreclosure deed issued pursuant to NRS 116.31164 that includes recitals
18 of "(a) [d]efault, the mailing of the notice of delinquent assessment, and the recoding of the
19 notice of default and election to sell; (b) [t]he elapsing of the 90 days; and (c) [t]he giving of
20 notice of sale, are conclusive proof of the matters recited." NRS 116.31166(1)(a)-(c).
21 Furthermore, "[s]uch a deed containing those recitals is conclusive against the unit's former
22 owner, his or her heirs and assigns, and all other persons. NRS 116.31166(2); *SFR Decision*,
23 334 P.3d at 411-412; *Shadow Wood*, 366 P.3d at 1110.

24 "A presumption not only fixes the burden of going forward with evidence, but it also
25 shifts the burden of proof." *Yeager v. Harrah's Club, Inc.*, 111 Nev. 830, 834, 897 P.2d 1093,
26 1095 (1995)(*citing Vancheri v. GNLV Corp.*, 105 Nev. 417, 421, 777 P.2d 366, 368 (1989)).
27 "These presumptions impose on the party against whom it is directed the burden of proving that
28 the nonexistence of the presumed fact is more probable than its existence." *Id.* (*citing NRS*

1 47.180.). Thus, the Bank bore the burden of proving it was more probable than not that the
2 Association Foreclosure Sale and the Foreclosure Deed were invalid. Furthermore, the Bank
3 bore the burden to overcome the conclusive proof in the Foreclosure Deed recitals, to even be
4 entitled to equity.

5 Foreclosure Under NRS 116

6 In 1991, Nevada adopted the Uniform Common Interest Act (1982 version) ("UCIOA"),
7 as NRS Chapter 116, effective January 1, 1992. *SFR Decision*, 334 P.3d at 410. Pursuant to
8 NRS 116.3116(2) and the CC&Rs, an association has a lien for assessments, a portion of which
9 has priority over a first security interest. *SFR Decision*, 334 P.3d at 411. NRS 116.31162 -
10 116.31168 provides the means for an association to foreclose on its lien non-judicially.² *Id.*
11 When an association properly forecloses on its lien by sale it will extinguish all junior liens on
12 the property, including a first deed of trust. *Id.* at 419.

13 Constitutionality of the Statute

14 Chase argues that the Statute is unconstitutional on its face as it violates the due process
15 clauses of the Fourteenth Amendment of the United States Constitution as well as the Nevada
16 Constitution. It also relies heavily on the analysis in the *Bourne Valley* decision by the 9th
17 Circuit. It claims that the Statute does not require a homeowner's association to provide actual
18 notice of its foreclosure efforts to lenders and other secured parties with a recorded interest in a
19 property before the association extinguishes its lien at an association foreclosure sale. Instead,
20 the Bank argues that the Statute places the burden on the lender to affirmatively "opt in" and
21 request notice. SFR argues that the Bank lacks standing to assert a due process challenge in this
22 case because it received actual notice of the Association Foreclosure Sale as required by NRS
23 116. Even if it had standing to assert such a challenge, SFR argues that the Nevada Supreme
24 Court already rejected the constitutional challenge of the Statute, facially and as applied, in the
25 *SFR Decision*. SFR also argues that the Statute does not violate due process as it does not
26

27
28 ² All references to NRS 116 are to the statutes as they existed at the time of the Association
Foreclosure Sale in 2012.

1 involve a state action and a state actor. Finally, SFR argues that the Statute is constitutional as it
2 requires notice to be sent to all junior lienholders before their interests are extinguished.

3 This Court recognizes the Bourne Valley opinion but rejects the analysis and notes that
4 the Bourne Valley decision is not binding on this Court. Further, the Court rejects the
5 construction offered by Chase. This Court concludes that the Statute is constitutional, as it
6 requires notice to be sent to all junior lienholders prior to the extinguishment of their interests in
7 the subject property based on the express incorporation of NRS 107.090 by NRS 116.31168.

8 Furthermore, here, the Bank provided no evidence to contradict the evidence that it
9 received the Association's foreclosure notices.

10 Retroactive Application of the SFR Decision

11 This Court rejects Chase's argument that the SFR Decision should not be applied
12 retroactively. First, the Court finds that Chase failed to raise this retroactively argument as an
13 affirmative defense. The Nevada Supreme Court, in the *SFR Decision*, did not announce a new
14 rule of law. It interpreted existing statutes and law. Retroactivity concerns are removed from the
15 statutory construction context because, "[a] judicial construction of a statute is an authoritative
16 statement of what the statute meant before as well as after the decision of the case giving rise to
17 that construction." *Morales-Izquierdo v. Dept. of Homeland Sec.*, 600 F.3d 1076, 1087-88
18 (2010) (quoting *Rivers v. Roadway Express, Inc.*, 511 U.S. 298, 312-13 (1994)) (overruled in
19 part on other grounds by *Garfias-Rodriguez v. Holder*, 702 F.3d 504, 516 (2012)). When a court
20 interprets a statute, "it is explaining its understanding of what the statute has meant continuously
21 since the date when it became law." *Morales-Izquierdo*, 600 F.3d at 1088 (quoting *Rivers*, 511
22 U.S. at 313 n.12). Consequently, judicial interpretations are given "[f]ull retroactive effect[.]"
23 *Morales-Izquierdo*, 600 F.3d at 1008 (quoting *Harper*, 509 U.S. at 97).

24 FHA Insurance

25 Chase argues that the First DOT is protected by the Supremacy and Property Clauses of
26 the United States Constitution and, therefore, NRS 116 is preempted. This Court rejects these
27 arguments. The Court finds persuasive and adopts the analysis set forth by the Hon. Jennifer
28 Dorsey in *Freedom Mortgage Corp. v. Las Vegas Development Grp., LLC*, 106 F.Supp.3d 1174

(D.Nev. 2015). As discussed therein, HUD is not a party to this litigation and nothing provides that Chase has standing to raise the Property Clause to protect HUD's alleged interest in the Property, and further, this Court deems the insurance interest to be too attenuated to implicate the Property clause. Additionally, the Court finds there is neither express nor conflict preemption, as Chase could have complied with both NRS 116 and HUD's policies and procedures. Finally, pursuant to *Armstrong v. Exceptional Child Care Ctr, Inc.*, 135 S.Ct. 1378 (2015), this Court concludes that Chase, as a private litigant, cannot rely on the Supremacy Clause in any case to challenge NRS 116.

Price Paid for the Property

The Bank argues that the price SFR paid for the Property, \$5,100.00, was grossly inadequate as a matter of law. The Bank argues that, under the Restatement, a sale price is "grossly inadequate" if it is less than 20 percent of the property's fair market value. The Bank claims that the Association Foreclosure Sale should be invalidated as SFR paid only 7.4% of what it deemed the Property's value.³ SFR argues that the Nevada Supreme Court has not adopted the Restatement and that price alone is not enough to set aside the Association Foreclosure Sale. For that to be accomplished, there must also be evidence of fraud, oppression, or unfairness. Furthermore SFR contested the value placed by Chase on the Property.⁴

With regards to the price paid for the Property, this Court does not believe the Nevada Supreme Court has adopted a 20 percent absolute threshold. Price alone is not enough to void an association foreclosure sale. In addition to a low price, there would have to be evidence of fraud, oppression, or unfairness in the conduct of the sales process itself, which is the important event. Without such evidence, this Court need not determine the actual value of the Property at the time of the sale. *See Oller v. Sonoma County Land Title Co.*, 290 P.2d 880, 882 (Cal.Ct.App. 1955) ("Since inadequacy of price is not alone ground for setting aside the sale, the failure of the court to find upon the value of the property is immaterial."), cited with approval in

³ Chase relied on an expert report that purported to do a retroactive analysis of the Property's fair market value

⁴ Chase relied on an

1 *Golden v. Tomiyasu*, 79 Nev. 503, 514, 387 P.2d 989, 994 (1963).

2 Sale Process

3 The Bank argues that in addition to the low price paid for the Property, the Association
4 Foreclosure Sale should be declared void as it contained the following irregularities. First Chase
5 argues that there was a mortgage savings clause in the CC&Rs. But it presents no evidence that
6 it relied on the clause or that anyone else relied on that clause such that it caused the allegedly
7 inadequate price paid at the sale. And the *SFR Decision* made it clear that the mortgage savings
8 clause has been unenforceable since inception. Second, the Bank argues that no competitive
9 bidding took place at the Association Foreclosure Sale. The Bank argues there were only two
10 bidders at the sale. Chase goes on to argue that while the Association Foreclosure Sale was
11 noticed in accordance with the law, as commercially required, NAS did not make any additional
12 efforts to maximize the publicity of the sale. However, Chase provides no evidence that the sale
13 was not properly noticed pursuant to statute. It had actual notice of the sale and, in fact,
14 contacted its own borrower regarding the delinquency. The Bank knew how much it needed to
15 pay to stop the sale because the amounts were clearly stated in the notices Chase admits it
16 received. The Bank could have paid that amount, even under protest, to protect its interest in
17 the Property but failed to do so. Chase could have attended the sale itself and did not. Third,
18 Chase argues that there is evidence that the proceeds of the sale were not properly distributed.
19 However, pursuant to statute, SFR has no responsibility for proper distribution. NRS
20 116.31166(2). Additionally, this goes only to post-sale actions, not pre-sale. Finally, Chase
21 argues that SFR's purchasing agent, Robert Diamond, may have believed SFR was taking title
22 subject to the First DOT. However, Mr. Diamond's personal beliefs are irrelevant to the actual
23 conduct of the sale. None of the facts on which Chase relies are enough to overcome the
24 presumption and evidence of the validity of the sale.

25 This Court does not find any evidence of fraud, oppression, or unfairness that would
26 justify setting aside the Association Foreclosure Sale in this case. There is no evidence to
27 suggest the Association Foreclosure Sale was not conducted properly in this case. All
28 statutorily required notices were provided to all relevant parties, including Chase, and the price

1 SFR paid for the Property is not proof of any fraud, oppression, or unfairness. Thus, this Court
2 concludes the Association Foreclosure Sale was properly held and, pursuant to the SFR
3 Decision, extinguished the First DOT.

4 Equitable Analysis

5 While this Court does not believe an equitable analysis is required as the Bank failed to
6 set forth any evidence of fraud, oppression, or unfairness that would justify setting aside the
7 Association Foreclosure Sale, if it were to consider equity in this case, the weight supports
8 judgment in favor of SFR. Here, the Bank admits it received the NOD and NOS. The Bank
9 also admits that it did not make a tender to the Association or its agent, NAS, to protect its
10 interest in the Property but merely requested a payoff amount. Despite knowing when the
11 Association Foreclosure Sale was scheduled to take place, the Bank did not make any attempt to
12 stop the sale by filing a lawsuit to seek injunctive relief. The Bank had numerous options
13 available to protect its interest in the Property, including, among other things, attending the
14 Association Foreclosure Sale itself, but did not pursue them.

15 Given this, equity favors SFR in this case.

16 Unjust Enrichment

17 Chase claimed that if title was quieted in SFR's name, SFR was unjustly enriched by
18 Chase's payment of property taxes and for insurance on the Property. SFR argues that Chase's
19 claim is barred by the voluntary payment doctrine, which precludes reimbursement for
20 voluntarily paid expenses that do not meet an exception, such as business compulsion or defense
21 of property. SFR argues specifically that "money voluntarily paid, with full knowledge of all the
22 facts, although no obligation to make such payment existed, cannot be recovered back." *Nevada*
23 *Ass'n Services, Inc. v. Eighth Judicial Dist. Ct.*, 130 Nev. _____, 338 P.3d 1250, 1253 (2014).
24 Further, SFR argues that any insurance on the Property that Chase paid was for its own benefit
25 unless it admitted and showed that Chase named SFR as an additional insured. Chase argues the
26 doctrine does not apply, that it did not have full knowledge of the facts or, in the alternative, that
27 equity demands reimbursement.

1 The Court is persuaded by *Nevada Ass'n Services, Inc. v. Eighth Judicial Dist. Ct.*, 130
2 Nev. _____, 338 P.3d 1250 (2014), in which the Nevada Supreme Court recognized that voluntary
3 payment of expenses without meeting an exception precludes recovery for unjust enrichment.
4 SFR had the burden to show the alleged payments were voluntary, and then Chase had the
5 burden to show an exception existed to the voluntary payment doctrine. *Id.* at 1254. The two
6 exceptions are (1) coercion or duress caused by a business necessity and (2) payment in defense
7 of property.

8 Here, Chase knew that SFR had title to the Property and, as such, had an obligation to
9 maintain the Property, by paying assessments, taxes, and insurance. Chase never demonstrated
10 that it paid the property taxes in order to stop an imminent foreclosure by the taxing authority,
11 or that SFR would not have paid the property taxes if Chase had not done so. Furthermore,
12 Chase never argued that SFR would somehow benefit from whatever insurance Chase
13 maintained on the Property. Thus, Chase cannot claim that it was either coerced or paid in
14 defense of property. Accordingly, the payments made by Chase, which was aware that the title
15 would pass from its borrower if the Association foreclosed, were made voluntarily and with full
16 knowledge of the facts, even if it allegedly misapprehended the law at the time of the sale. SFR
17 is entitled to summary judgment on Chase's unjust enrichment claim.

18 For the reasons stated above and good cause appearing,

19 IT IS HEREBY ORDERED that SFR's motion for summary judgment is GRANTED in
20 its entirety.

21 IT IS FURTHER ORDERED that the Bank's motion for summary judgment is moot and
22 shall be denied as such and the hearing vacated.

23 IT IS FURTHER ORDERED that the First DOT recorded against the Property commonly
24 known as 1076 Slate Crossing #2, Henderson, Nevada 89002; Parcel No. 179-34-713-236 was
25 extinguished by the Association Foreclosure Sale.

26 IT IS FURTHER ORDERED that Chase had no interest in the Property after the
27 Association Foreclosure Sale on September 21, 2012 and is hereby permanently enjoined from
28 taking any action to enforce the First DOT recorded on May 14, 2008 as Instrument No.

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20080514-0005041. This order does not preclude, limit, or in any way restrict any remedies available under the promissory note that was secured by the First DOT.

IT IS FURTHER ORDERED that title to the Property commonly known as 1076 Slate Crossing #2, Henderson, Nevada 89002; Parcel No. 179-34-713-236 is hereby quieted in favor of SFR Investments Pool 1, LLC.

IT IS SO ORDERED.

DATED this 25 day of October, 2016.

Nancy Lane
DISTRICT COURT JUDGE

Respectfully Submitted By:
KIM GILBERT EBRON

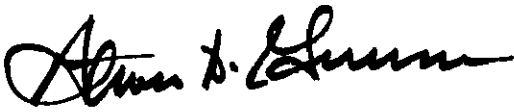
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EXHIBIT 11

EXHIBIT 11


CLERK OF THE COURT

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Case No. A-12-672963-C

Dept. No. XXVII

Plaintiff,

vs.

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER**

VENTA REALTY GROUP, a Nevada
corporation, JPMORGAN CHASE BANK,
N.A., a national association, successor by
merger to CHASE HOME FINANCE LLC, a
foreign limited liability corporation, ET AL.,

Defendants.

JPMORGAN CHASE BANK, N.A., as
successor by merger to Chase Home Finance
LLC,

Counterclaimant,

vs.

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

Counter-defendant.

PLEASE TAKE NOTICE that on October 26, 2016 this Court entered a **Findings of**

///

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Fact, Conclusions of Law, and Order. A copy of said Findings of Fact, Conclusions of Law, and Order is attached hereto.

DATED this 27th day of October, 2016.

KIM GILBERT EBRON

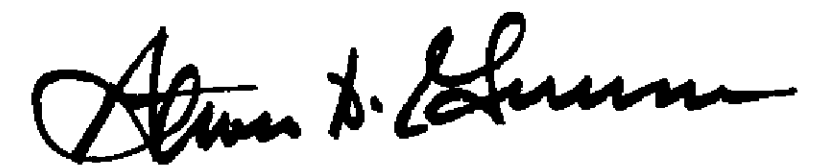
/s/ Diana Cline Ebron
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CERTIFICATE OF SERVICE

I hereby certify that on this 27th 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 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** to the following parties:

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CLERK OF THE COURT

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

VENTA REALTY GROUP, a Nevada
corporation, JPMORGAN CHASE BANK,
N.A., a national association, successor by
merger to CHASE HOME FINANCE LLC, a
foreign limited liability corporation, ET AL.,

Defendants.

Case No. A-12-672963-C

Dept. No. XXVII

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER

JPMORGAN CHASE BANK, N.A., as
successor by merger to Chase Home Finance
LLC,

Counterclaimant,

vs.

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

Counter-defendant.

This matter came before the Court for hearing on September 15, 2016 at 9:30 a.m. on
SFR Investments Pool 1, LLC's ("SFR") motion for summary judgment on SFR's claims against

<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 JPMorgan Chase Bank, N.A., successor by merger to Chase Home Finance LLC ("Chase" or the
2 "Bank") and on Chase's counterclaims against SFR. Jacqueline A. Gilbert of the law firm of
3 Kim Gilbert Ebron appeared on behalf of SFR. Lindsay C. Demaree of the law firm of Ballard
4 Spahr, LLP appeared on behalf of Chase.

5 The Court, having considered the briefing on the motions, the pleadings and papers on
6 file herein, and argument of counsel, hereby finds and concludes as follows:¹

7 **FINDINGS OF UNDISPUTED FACT**

8 **The Property and Corresponding Foreclosure Sale**

9 1. Delaine L. Harned ("Harned") obtained title to real property commonly known as
10 1076 Slate Crossing #2, Henderson, Nevada 89002; Parcel No. 179-34-713-236 (the
11 "Property") by way of a Grant, Bargain, Sale Deed ("GBS Deed") from U.S. Bank National
12 Association, as Trustee, on behalf of the holders of the Home Equity asset Trust 2006-3 Home
13 Equity Pass Through Certificates, Series 2006-3 by Select Portfolio Servicing, its Attorney in
14 Fact. The GBS Deed was recorded in the Official Records of the Clark County Recorder on May
15 14, 2008 as Instrument No. 20080514-0005040.

16 2. Harned appears to have taken out a loan against the Property, executing a
17 promissory note, and the Deed of Trust ("First DOT") that secured the note in favor of was
18 recorded in the Official Records of the Clark County Recorder on May 14, 2008 as Instrument
19 No. 20080514-0005041. The First DOT named Mortgage Electronic Registration Systems
20 ("MERS") as the beneficiary on behalf of Venta Realty Group, dba Venta Home Loans, a
21 Nevada Corporation ("Venta"), the lender. The First DOT also included a Planned Unit
22 Development Rider that allowed the Lender to pay the Borrower's Association Assessment and
23 add that amount to the Borrower's debt to Lender.

24 3. The Property is located within the common interest community of Paradise Court
25 ("Association") as referenced in the First DOT. The Association recorded its Declaration of
26 Covenants, Conditions and Restrictions ("CC&Rs") in the Official Records of the Clark County
27

28 ¹ Any finding of fact that is more properly deemed a conclusion of law shall be so deemed.

1 Recorder on May 18, 2004 as Instrument No. 20040518-0001999. The CC&Rs include, *inter*
2 *alia*, the requirement that homeowners or members of the Association pay periodic assessments
3 to benefit the common-interest community. The CC&Rs also incorporate the provisions of NRS
4 116.3116 et seq. for non-payment of assessments. The First DOT also included a Planned Unit
5 Development Rider that allowed the Lender to pay the Borrower's Association Assessment and
6 add that amount to the Borrower's debt to Lender.

7 4. On February 5, 2010, Nevada Association Services ("NAS") on behalf of the
8 Association, recorded a Notice of Delinquent Assessment Lien against the Property. That notice
9 was recorded in the Official Records of the Clark County Recorder as Instrument No. 20100205-
10 0001923 (the operative NODA). The Operative NODA was mailed to Hamed.

11 5. MERS executed an Assignment of Deed of Trust ("Assignment") transferring all
12 beneficial interest in the First DOT and the underlying note to Chase. The Assignment was
13 recorded in the Official Records of the Clark County Recorder on December 6, 2010, as
14 Instrument No. 201012060000315.

15 6. The same day Chase recorded a Substitution of Trustee, naming California
16 Reconveyance Company ("CRC"), as Instrument No. 201012060000316. Immediately
17 thereafter, CRC recorded a Notice of Default and Election to Sell Under Deed of Trust ("Bank
18 NOD"), as Instrument No. 201012060000317.

19 7. CRC recorded a Foreclosure Mediation Certificate on April 12, 2011, as
20 Instrument No. 201104120001990, stating that Chase could proceed with the foreclosure
21 process.

22 8. CRC recorded a Notice of Trustee's sale on June 1, 2011, as Instrument No.
23 201106010003269, giving a sale date of June 21, 2011. The sale apparently did not take place
24 that day, and on September 29, 2011, CRC recorded another Notice of Trustee's Sale as
25 Instrument No. 201109290003457, giving a sale date of October 20, 2011. The sale apparently
26 did not take place that day.

27 9. On March 7, 2012, NAS recorded on behalf of the Association, a Notice of
28 Default and Election to Sell Under Homeowners Association Lien ("Association NOD"), as

1 Instrument No. 201203070000441. The Association NOD was mailed to Harned, Venta, Chase,
2 CRC, and MERS. The Bank does not dispute receiving the Association NOD.

3 10. Chase did not attempt to pay the Association after receiving the Association
4 NOD.

5 11. On May 25, 2012, Chase sent a letter to Harned advising her that she should
6 correct the situation or Chase may initiate appropriate actions to bring the account current per the
7 terms of the mortgage.

8 12. On August 30, 2012, more than ninety days after recording of the Association
9 NOD, NAS recorded a Notice of Trustee's Sale ("Association NOS"), as Instrument No.
10 20120830-0003067, giving September 21, 2012 as the sale date. This Association NOS was
11 mailed to Harned, Venta, Chase, CRC and MERS. Chase received the Association NOS and does
12 not dispute this. The NOS included the following language in larger font than the remainder of
13 the notice: "WARNING! A SALE OF YOUR PROPERTY IS IMMINENT!
14 UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE
15 THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE
16 AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE." The
17 NOS included the contact information for NAS, as agent for the Association. The NOS stated
18 that the sale would take place on November 30, 2012 at 10:00 a.m. and provided the location of
19 the sale. The NOS also stated in all capital letters: "UNLESS YOU TAKE ACTION TO
20 PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE." Chase appears to
21 have taken no action after receipt of the Association NOS.

22 13. The Association NOS was properly posted and published pursuant to NRS
23 116.311635.

24 14. The Association auction took place on September 21, 2012 ("Association
25 Foreclosure Sale"). At that sale, SFR placed a winning bid of \$6,100.00. There were multiple
26 bidders in attendance at the sale. No one acting on behalf of the Bank attended the Association
27 Foreclosure Sale.

28 15. The Foreclosure Deed vesting title in SFR was recorded in the Official Records of

1 the Clark County Recorder on September 25, 2012 as Instrument No. 20120925-0001230
2 ("Foreclosure Deed"). The Foreclosure Deed included the following recitals:

3
4 This conveyance is made pursuant to the powers conferred upon agent by Nevada
5 Revised Statutes, the Paradise Court governing documents (CC&R's) and that
6 certain Notice of Delinquent Assessment Lien, described herein [recorded
7 February 5, 2010]. Default occurred as set forth in a Notice of Default and
8 Election to Sell, recorded on 3/7/2012 as instrument # 0000441 Book 10120307
9 which was recorded in the office of the recorder of said county. 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 Notice of
Delinquent Assessment and Notice of Default and the posting and publication of
the Notice of Sale. Said property was sold by said agent, on behalf of Paradise
Court at public auction on 9/21/2012, at the place indicated on the Notice of Sale.

10 16. The Bank did not make any payments to the Association or its agent, NAS, prior
11 to the Association Foreclosure Sale nor did the Bank challenge the Association Foreclosure Sale
12 in any administrative or civil proceeding prior to filing its complaint in this case.

13 Chase Attempts to Foreclose Yet Again

14 17. On October 11, 2012, Chase substituted National Default Servicing Corporation
15 ("NDSC") in place of CRC via Instrument No. 20121011-0001602. NDSC immediately filed a
16 Notice of Trustee's Sale Under Deed of Trust as Instrument No. 20121011-0001603.

17 The Lawsuit and Arguments of the Parties

18 18. On December 4, 2012, SFR filed its complaint for quiet title and declaratory relief
19 against Chase, Harned, Venta, Republic Silver State Disposal, Inc., and the Association, alleging
20 that the Association Foreclosure Sale extinguished the defendants' interest in the Property. SFR
21 also sought injunctive relief against Venta, Chase, CRC and NDSC to prevent them from taking
22 any action to foreclose on, sell, convey, or otherwise enforce any interest against the Property.

23 19. Chase answered SFR's complaint on January 25, 2013. SFR voluntarily dismissed
24 the Association, CRC, Republic Silver State Disposal, and NDSC by notice or stipulations
25 entered on February 5, 2013, July 15, 2013, July 18, 2013, and February 6, 2014 respectively.

26 20. Default was entered against Venta on May 14, 2015.

27 21. On September 18, 2014, the Nevada Supreme Court issued its decision in *SFR*
28 *Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. ____, 334 P.3d 408 (2014) ("SFR

1 *Decision*”), holding that a properly conducted association foreclosure sale will extinguish a first
2 deed of trust.

3 22. On October 19, 2015, Chase filed an amended answer and counterclaim, asserting
4 a claim for unjust enrichment against SFR.

5 23. SFR filed its answer to the counterclaim on November 6, 2015.

6 24. SFR filed its motion for summary judgment on August 11, 2016, seeking
7 judgment on all claims against Chase.

8 25. Chase filed its motion for summary judgment on September 13, 2016.

9 26. In SFR’s motion for summary judgment

10 27. In its motion for summary judgment, SFR argued, *inter alia*, that (1) the Association
11 Foreclosure Sale extinguished the First DOT and Chase’s interest in the Property, and that the
12 conclusive proof in the Association Foreclosure Deed and presumptions under NRS 47.250 shift
13 the burden to Chase to show that the Association Foreclosure Sale was somehow improper; (2)
14 Chase, as a lienholder, is not entitled to an equitable remedy; (3) the Association Foreclosure
15 Sale vested title in SFR without equity or right of redemption; (4) the Association Foreclosure
16 Sale was commercially reasonable; (4) even if there were irregularities with the sale, they could
17 not be imputed to SFR because SFR is a bona fide purchaser for value; (5) any claims by Chase
18 against the sale are barred by laches; d (6) Chase’s unjust enrichment claim failed under the
19 voluntary payment doctrine; and (7) Chase lacks standing to raise either the Supremacy Clause
20 or Property Clause based on the loan allegedly being FHA insured to challenge the Association
21 Foreclosure Sale and that even if able to raise it, there is no preemption, express or implied.

22 28. In opposition, Chase argued, *inter alia*, that (1) the Association’s CC&Rs
23 mortgage protection clause precluded extinguishment and there were material questions of fact
24 as to SFR’s BFP status; (2) NRS 116 (the “Statute”) is unconstitutional on its face as it does not
25 require homeowner’s associations to provide known lienholders with actual notice prior to
26 extinguishing their liens, in violation of the minimum requirements for due process under the
27 United States and Nevada constitutions, relying heavily on the analysis in the recent Ninth
28 Circuit decision in *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, No. 15-15233, 2016

1 WL 4254983 (9th Cir. Aug. 12, 2016); (3) because the loan was FHA insured, the supremacy
2 clause and property clauses preempt NRS 116; (4) the *SFR Decision* does not apply to this case
3 because the Association Foreclosure Sale took place on September 21, 2012 and the *SFR*
4 *Decision* does not apply retroactively; (5) the Association Foreclosure sale was “tainted” by
5 unfairness and Chase is entitled to equitable relief; (6) the price paid at the Association
6 Foreclosure sale was “grossly inadequate” and that is enough to void the sale; (7) laches does not
7 apply; and (8) the voluntary payment doctrine does not apply or equity requires payment to
8 Chase on its unjust enrichment claim.

9 29. SFR’s reply addressed its arguments regarding Bourne Valley and
10 constitutionality, the supremacy and property clauses as relating to FHA insurance, commercial
11 reasonableness, retroactively, applying equities pursuant to *Shadow Wood HOA v. N.Y. Cmty.*
12 *Bancorp*, 132 Nev. ____, 366 P.3d 1105 (2016), and unjust enrichment.

13 30. At the hearing, Chase requested that the hearing be continued until its motion for
14 summary judgment could be heard. The Court finds that this was not necessary as all claims
15 were addressed in SFR’s motion and therefore denied Chase’s oral motion to continue.

16 CONCLUSIONS OF LAW

17 Summary judgment is appropriate and “shall be rendered forthwith” when the pleadings
18 and other evidence on file demonstrate no “genuine issue as to any material fact [remains] and
19 that the moving party is entitled to a judgment as a matter of law.” NRCP 56(c); *Wood v.*
20 *Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Declaratory or equitable relief
21 may be adjudicated on summary judgment. *Shadow Wood*, 366 P.3d at 1111. “The substantive
22 law controls which factual disputes are material and will preclude summary judgment; other
23 factual disputes are irrelevant.” *Wood*, 121 Nev. at 731, 121 P.3d at 1031. “A factual dispute is
24 genuine when the evidence is such that a rational trier of fact could return a verdict for the non-
25 moving party.” *Id.* While the pleadings and other proof must be construed in a light most
26 favorable to the non-moving party, that party bears the burden “to do more than simply show
27 that there is some metaphysical doubt” as to the operative facts in order to avoid summary
28 judgment being entered in the moving party’s favor. *Matsushita Electric Industrial Co. v.*

1 *Zenith Radio*, 475 U.S. 574, 586 (1986), *cited in Wood*, 121 Nev. at 732, 121 P.3d at 1031. The
2 non-moving party “must, by affidavit or otherwise, set forth specific facts demonstrating the
3 existence of a genuine issue for trial or have summary judgment entered against him.” *Bulbman*
4 *Inc. v. Nevada Bell*, 108 Nev. 105, 110, 828 P.2d 588, 591 (1992), *cited in Wood*, 121 Nev. at
5 732, 121 P.3d at 1031. The non-moving party “is not entitled to build a case on the gossamer
6 threads of whimsy, speculation, and conjecture.” *Bulbman*, 108 Nev. at 110, 825 P.2d 591,
7 *quoting Collins v. Union Fed. Savings & Loan*, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983).

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

11 1. That foreclosure sales and the resulting deeds are presumed valid. NRS
12 47.250(16-18) (stating that there are disputable presumptions “that the law has been obeyed”;
13 “that a trustee or other person, whose duty it was to convey real property to a particular person,
14 has actually conveyed to that person, when such presumption is necessary to perfect the title of
15 such person or a successor in interest”; “that private transactions have been fair and regular”;
16 and “that the ordinary course of business has been followed.”)

17 2. That a foreclosure deed issued pursuant to NRS 116.31164 that includes recitals
18 of “(a) [d]efault, the mailing of the notice of delinquent assessment, and the recoding of the
19 notice of default and election to sell; (b) [t]he elapsing of the 90 days; and (c) [t]he giving of
20 notice of sale, are conclusive proof of the matters recited.” NRS 116.31166(1)(a)-(c).
21 Furthermore, “[s]uch a deed containing those recitals is conclusive against the unit’s former
22 owner, his or her heirs and assigns, and all other persons. NRS 116.31166(2); *SFR Decision*,
23 334 P.3d at 411-412; *Shadow Wood*, 366 P.3d at 1110.

24 “A presumption not only fixes the burden of going forward with evidence, but it also
25 shifts the burden of proof.” *Yeager v. Harrah’s Club, Inc.*, 111 Nev. 830, 834, 897 P.2d 1093,
26 1095 (1995)(*citing Vancheri v. GNLV Corp.*, 105 Nev. 417, 421, 777 P.2d 366, 368 (1989)).
27 “These presumptions impose on the party against whom it is directed the burden of proving that
28 the nonexistence of the presumed fact is more probable than its existence.” *Id.* (*citing* NRS

1 47.180.). Thus, the Bank bore the burden of proving it was more probable than not that the
2 Association Foreclosure Sale and the Foreclosure Deed were invalid. Furthermore, the Bank
3 bore the burden to overcome the conclusive proof in the Foreclosure Deed recitals, to even be
4 entitled to equity.

5 Foreclosure Under NRS 116

6 In 1991, Nevada adopted the Uniform Common Interest Act (1982 version) ("UCIOA"),
7 as NRS Chapter 116, effective January 1, 1992. *SFR Decision*, 334 P.3d at 410. Pursuant to
8 NRS 116.3116(2) and the CC&Rs, an association has a lien for assessments, a portion of which
9 has priority over a first security interest. *SFR Decision*, 334 P.3d at 411. NRS 116.31162 -
10 116.31168 provides the means for an association to foreclose on its lien non-judicially.² *Id.*
11 When an association properly forecloses on its lien by sale it will extinguish all junior liens on
12 the property, including a first deed of trust. *Id.* at 419.

13 Constitutionality of the Statute

14 Chase argues that the Statute is unconstitutional on its face as it violates the due process
15 clauses of the Fourteenth Amendment of the United States Constitution as well as the Nevada
16 Constitution. It also relies heavily on the analysis in the *Bourne Valley* decision by the 9th
17 Circuit. It claims that the Statute does not require a homeowner's association to provide actual
18 notice of its foreclosure efforts to lenders and other secured parties with a recorded interest in a
19 property before the association extinguishes its lien at an association foreclosure sale. Instead,
20 the Bank argues that the Statute places the burden on the lender to affirmatively "opt in" and
21 request notice. SFR argues that the Bank lacks standing to assert a due process challenge in this
22 case because it received actual notice of the Association Foreclosure Sale as required by NRS
23 116. Even if it had standing to assert such a challenge, SFR argues that the Nevada Supreme
24 Court already rejected the constitutional challenge of the Statute, facially and as applied, in the
25 *SFR Decision*. SFR also argues that the Statute does not violate due process as it does not
26

27
28 ² All references to NRS 116 are to the statutes as they existed at the time of the Association
Foreclosure Sale in 2012.

1 involve a state action and a state actor. Finally, SFR argues that the Statute is constitutional as it
2 requires notice to be sent to all junior lienholders before their interests are extinguished.

3 This Court recognizes the Bourne Valley opinion but rejects the analysis and notes that
4 the Bourne Valley decision is not binding on this Court. Further, the Court rejects the
5 construction offered by Chase. This Court concludes that the Statute is constitutional, as it
6 requires notice to be sent to all junior lienholders prior to the extinguishment of their interests in
7 the subject property based on the express incorporation of NRS 107.090 by NRS 116.31168.

8 Furthermore, here, the Bank provided no evidence to contradict the evidence that it
9 received the Association's foreclosure notices.

10 Retroactive Application of the SFR Decision

11 This Court rejects Chase's argument that the SFR Decision should not be applied
12 retroactively. First, the Court finds that Chase failed to raise this retroactively argument as an
13 affirmative defense. The Nevada Supreme Court, in the *SFR Decision*, did not announce a new
14 rule of law. It interpreted existing statutes and law. Retroactivity concerns are removed from the
15 statutory construction context because, "[a] judicial construction of a statute is an authoritative
16 statement of what the statute meant before as well as after the decision of the case giving rise to
17 that construction." Morales-Izquierdo v. Dept. of Homeland Sec., 600 F.3d 1076, 1087-88
18 (2010) (quoting Rivers v. Roadway Express, Inc., 511 U.S. 298, 312-13 (1994)) (overruled in
19 part on other grounds by Garfias-Rodriguez v. Holder, 702 F.3d 504, 516 (2012)). When a court
20 interprets a statute, "it is explaining its understanding of what the statute has meant continuously
21 since the date when it became law." Morales-Izquierdo, 600 F.3d at 1088 (quoting Rivers, 511
22 U.S. at 313 n.12). Consequently, judicial interpretations are given "[f]ull retroactive effect[.]"
23 Morales-Izquierdo, 600 F.3d at 1008 (quoting Harper, 509 U.S. at 97).

24 FHA Insurance

25 Chase argues that the First DOT is protected by the Supremacy and Property Clauses of
26 the United States Constitution and, therefore, NRS 116 is preempted. This Court rejects these
27 arguments. The Court finds persuasive and adopts the analysis set forth by the Hon. Jennifer
28 Dorsey in *Freedom Mortgage Corp. v. Las Vegas Development Grp., LLC*, 106 F.Supp.3d 1174

(D.Nev. 2015). As discussed therein, HUD is not a party to this litigation and nothing provides that Chase has standing to raise the Property Clause to protect HUD's alleged interest in the Property, and further, this Court deems the insurance interest to be too attenuated to implicate the Property clause. Additionally, the Court finds there is neither express nor conflict preemption, as Chase could have complied with both NRS 116 and HUD's policies and procedures. Finally, pursuant to *Armstrong v. Exceptional Child Care Ctr, Inc.*, 135 S.Ct. 1378 (2015), this Court concludes that Chase, as a private litigant, cannot rely on the Supremacy Clause in any case to challenge NRS 116.

Price Paid for the Property

The Bank argues that the price SFR paid for the Property, \$5,100.00, was grossly inadequate as a matter of law. The Bank argues that, under the Restatement, a sale price is "grossly inadequate" if it is less than 20 percent of the property's fair market value. The Bank claims that the Association Foreclosure Sale should be invalidated as SFR paid only 7.4% of what it deemed the Property's value.³ SFR argues that the Nevada Supreme Court has not adopted the Restatement and that price alone is not enough to set aside the Association Foreclosure Sale. For that to be accomplished, there must also be evidence of fraud, oppression, or unfairness. Furthermore SFR contested the value placed by Chase on the Property.⁴

With regards to the price paid for the Property, this Court does not believe the Nevada Supreme Court has adopted a 20 percent absolute threshold. Price alone is not enough to void an association foreclosure sale. In addition to a low price, there would have to be evidence of fraud, oppression, or unfairness in the conduct of the sales process itself, which is the important event. Without such evidence, this Court need not determine the actual value of the Property at the time of the sale. *See Oller v. Sonoma County Land Title Co.*, 290 P.2d 880, 882 (Cal.Ct.App. 1955) ("Since inadequacy of price is not alone ground for setting aside the sale, the failure of the court to find upon the value of the property is immaterial."), cited with approval in

³ Chase relied on an expert report that purported to do a retroactive analysis of the Property's fair market value

⁴ Chase relied on an

1 *Golden v. Tomiyasu*, 79 Nev. 503, 514, 387 P.2d 989, 994 (1963).

2 Sale Process

3 The Bank argues that in addition to the low price paid for the Property, the Association
4 Foreclosure Sale should be declared void as it contained the following irregularities. First Chase
5 argues that there was a mortgage savings clause in the CC&Rs. But it presents no evidence that
6 it relied on the clause or that anyone else relied on that clause such that it caused the allegedly
7 inadequate price paid at the sale. And the *SFR Decision* made it clear that the mortgage savings
8 clause has been unenforceable since inception. Second, the Bank argues that no competitive
9 bidding took place at the Association Foreclosure Sale. The Bank argues there were only two
10 bidders at the sale. Chase goes on to argue that while the Association Foreclosure Sale was
11 noticed in accordance with the law, as commercially required, NAS did not make any additional
12 efforts to maximize the publicity of the sale. However, Chase provides no evidence that the sale
13 was not properly noticed pursuant to statute. It had actual notice of the sale and, in fact,
14 contacted its own borrower regarding the delinquency. The Bank knew how much it needed to
15 pay to stop the sale because the amounts were clearly stated in the notices Chase admits it
16 received. The Bank could have paid that amount, even under protest, to protect its interest in
17 the Property but failed to do so. Chase could have attended the sale itself and did not. Third,
18 Chase argues that there is evidence that the proceeds of the sale were not properly distributed.
19 However, pursuant to statute, SFR has no responsibility for proper distribution. NRS
20 116.31166(2). Additionally, this goes only to post-sale actions, not pre-sale. Finally, Chase
21 argues that SFR's purchasing agent, Robert Diamond, may have believed SFR was taking title
22 subject to the First DOT. However, Mr. Diamond's personal beliefs are irrelevant to the actual
23 conduct of the sale. None of the facts on which Chase relies are enough to overcome the
24 presumption and evidence of the validity of the sale.

25 This Court does not find any evidence of fraud, oppression, or unfairness that would
26 justify setting aside the Association Foreclosure Sale in this case. There is no evidence to
27 suggest the Association Foreclosure Sale was not conducted properly in this case. All
28 statutorily required notices were provided to all relevant parties, including Chase, and the price

1 SFR paid for the Property is not proof of any fraud, oppression, or unfairness. Thus, this Court
2 concludes the Association Foreclosure Sale was properly held and, pursuant to the SFR
3 Decision, extinguished the First DOT.

4 Equitable Analysis

5 While this Court does not believe an equitable analysis is required as the Bank failed to
6 set forth any evidence of fraud, oppression, or unfairness that would justify setting aside the
7 Association Foreclosure Sale, if it were to consider equity in this case, the weight supports
8 judgment in favor of SFR. Here, the Bank admits it received the NOD and NOS. The Bank
9 also admits that it did not make a tender to the Association or its agent, NAS, to protect its
10 interest in the Property but merely requested a payoff amount. Despite knowing when the
11 Association Foreclosure Sale was scheduled to take place, the Bank did not make any attempt to
12 stop the sale by filing a lawsuit to seek injunctive relief. The Bank had numerous options
13 available to protect its interest in the Property, including, among other things, attending the
14 Association Foreclosure Sale itself, but did not pursue them.

15 Given this, equity favors SFR in this case.

16 Unjust Enrichment

17 Chase claimed that if title was quieted in SFR's name, SFR was unjustly enriched by
18 Chase's payment of property taxes and for insurance on the Property. SFR argues that Chase's
19 claim is barred by the voluntary payment doctrine, which precludes reimbursement for
20 voluntarily paid expenses that do not meet an exception, such as business compulsion or defense
21 of property. SFR argues specifically that "money voluntarily paid, with full knowledge of all the
22 facts, although no obligation to make such payment existed, cannot be recovered back." *Nevada*
23 *Ass'n Services, Inc. v. Eighth Judicial Dist. Ct.*, 130 Nev. ____, 338 P.3d 1250, 1253 (2014).
24 Further, SFR argues that any insurance on the Property that Chase paid was for its own benefit
25 unless it admitted and showed that Chase named SFR as an additional insured. Chase argues the
26 doctrine does not apply, that it did not have full knowledge of the facts or, in the alternative, that
27 equity demands reimbursement.

1 The Court is persuaded by *Nevada Ass'n Services, Inc. v. Eighth Judicial Dist. Ct.*, 130
2 Nev. ____, 338 P.3d 1250 (2014), in which the Nevada Supreme Court recognized that voluntary
3 payment of expenses without meeting an exception precludes recovery for unjust enrichment.
4 SFR had the burden to show the alleged payments were voluntary, and then Chase had the
5 burden to show an exception existed to the voluntary payment doctrine. *Id.* at 1254. The two
6 exceptions are (1) coercion or duress caused by a business necessity and (2) payment in defense
7 of property.

8 Here, Chase knew that SFR had title to the Property and, as such, had an obligation to
9 maintain the Property, by paying assessments, taxes, and insurance. Chase never demonstrated
10 that it paid the property taxes in order to stop an imminent foreclosure by the taxing authority,
11 or that SFR would not have paid the property taxes if Chase had not done so. Furthermore,
12 Chase never argued that SFR would somehow benefit from whatever insurance Chase
13 maintained on the Property. Thus, Chase cannot claim that it was either coerced or paid in
14 defense of property. Accordingly, the payments made by Chase, which was aware that the title
15 would pass from its borrower if the Association foreclosed, were made voluntarily and with full
16 knowledge of the facts, even if it allegedly misapprehended the law at the time of the sale. SFR
17 is entitled to summary judgment on Chase's unjust enrichment claim.

18 For the reasons stated above and good cause appearing,

19 IT IS HEREBY ORDERED that SFR's motion for summary judgment is GRANTED in
20 its entirety.

21 IT IS FURTHER ORDERED that the Bank's motion for summary judgment is moot and
22 shall be denied as such and the hearing vacated.

23 IT IS FURTHER ORDERED that the First DOT recorded against the Property commonly
24 known as 1076 Slate Crossing #2, Henderson, Nevada 89002; Parcel No. 179-34-713-236 was
25 extinguished by the Association Foreclosure Sale.

26 IT IS FURTHER ORDERED that Chase had no interest in the Property after the
27 Association Foreclosure Sale on September 21, 2012 and is hereby permanently enjoined from
28 taking any action to enforce the First DOT recorded on May 14, 2008 as Instrument No.

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20080514-0005041. This order does not preclude, limit, or in any way restrict any remedies available under the promissory note that was secured by the First DOT.

IT IS FURTHER ORDERED that title to the Property commonly known as 1076 Slate Crossing #2, Henderson, Nevada 89002; Parcel No. 179-34-713-236 is hereby quieted in favor of SFR Investments Pool 1, LLC.

IT IS SO ORDERED.

DATED this 25 day of October, 2016.

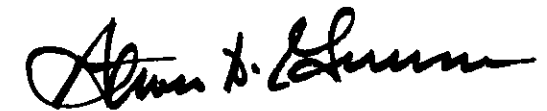
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DISTRICT COURT JUDGE
K

Respectfully Submitted By:
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EXHIBIT 12

EXHIBIT 12



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DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL1, LLC a Nevada
limited liability company,

Plaintiff,

Case No. A-12-672963-C

Dept. No. XXVII

VENTA REALTY GROUP, a Nevada
corporation, JP-MORGAN CHASE BANK,
N.A., a national association, successor by
merger to CHASE HOME FINANCE LLC, a
foreign limited liability corporation,
NATIONAL DEFAULT SERVICING
CORPORATION, an Arizona corporation,
CALIFORNIA RECONVEYANCE
COMPANY a California corporation,
REPUBLIC SILVER STATE DISPOSAL,
INC., a Nevada corporation, PARADISE
COURT HOMEOWNERS ASSOCIATION, a
Nevada non-profit corporation and DELANIE
L. HARNED, an individual, DOES I through
X; and ROE CORPORATIONS I through X,
inclusive,

Defendants.

**ORDER DENYING MOTION TO
EXCLUDE TESTIMONY OF MICHAEL
BRUNSON**

This matter came before the Court on August 10, 2016, on JP-Morgan Chase Bank, N.A.'s
Motion to Exclude Testimony of Michael Brunson. Abran Vigil, Esq. appeared on behalf of
JPMorgan Morgan Chase Bank, N.A. Karen L. Hanks, Esq. appeared on behalf of SFR
Investments Pool 1, LLC.

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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,

3 IT IS HEREBY ORDERED that JPMorgan Chase Bank, N.A.'s Motion to Exclude
4 Testimony of Michael Brunson is DENIED.

5
6 So ordered this 12 day of Sept., 2016

7 Nancy L. Allred
8 DISTRICT COURT JUDGE DL

9 Respectfully Submitted By:

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11 Karen L. Hanks

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16 Attorney for SFR Investments Pool 1, LLC

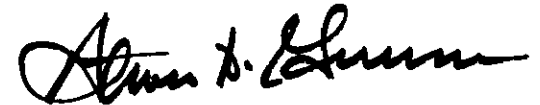
17 Approved as to Form by:

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19 Lindsay Demaree 47548

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25
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27
28

EXHIBIT 13

EXHIBIT 13



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10 *Claimant JPMorgan Chase Bank,*
National Association

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 **SFR INVESTMENTS POOL 1, LLC a**
14 **Nevada limited liability company,**

15 **Plaintiff,**

16 **v.**

17 **VENTA REALTY GROUP, a Nevada**
18 **corporation, JP MORGAN CHASE BANK,**
19 **N.A., a national association, successor by**
20 **merger to CHASE HOME FINANCE LLC,**
21 **a foreign limited liability corporation,**
22 **NATIONAL DEFAULT SERVICING**
23 **CORPORATION, an Arizona corporation,**
24 **CALIFORNIA RECONVEYANCE**
COMPANY, a California corporation,
REPUBLIC SILVER STATE DISPOSAL,
INC., a Nevada Corporation, PARADISE
COURT HOMEOWNERS ASSOCIATION,
a Nevada non-profit corporation and
DELANIE L. HARNED, an individual,
DOES I through X, ROE
CORPORATIONS I through X, inclusive,

25 **Defendants.**

26 **JPMORGAN CHASE BANK, N.A., as**
27 **successor by merger to Chase Home**
28 **Finance LLC,**

CASE NO. A-12-672963-C

DEPT. NO. XXVII

Counter-Claimant,

v.

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

Counter-Defendant.

**STIPULATION AND ORDER DIRECTING ENTRY OF FINAL
JUDGMENT AS BETWEEN SFR INVESTMENTS POOL 1, LLC
AND JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**

Plaintiff/Counter-Defendant SFR Investments Pool 1, LLC ("SFR") and
Defendant/Counter-Claimant JPMorgan Chase Bank, National Association, as
successor by merger to Chase Home Finance LLC ("Chase") hereby stipulate as
follows:

1. This is a quiet title action arising from a foreclosure sale under NRS
Chapter 116.

2. SFR's complaint filed December 4, 2012 named Chase, Venta Realty
Group ("Venta"), California Reconveyance Company ("CRC"), National Default
Servicing Corporation ("NDSC"), Paradise Court Homeowners Association ("HOA"),
Republic Silver State Disposal, Inc. ("Republic"), and Delanie L. Harned as
defendants.

3. The Court entered summary judgment for SFR on its claims against
Chase in its *Findings of Fact, Conclusions of Law, and Order* filed October 26, 2016
(the "Summary Judgment Order").

4. SFR dismissed CRC in a stipulation filed July 15, 2013.

5. SFR voluntarily dismissed NDSC on February 6, 2014.

6. SFR voluntarily dismissed HOA on February 5, 2013.

7. SFR voluntarily dismissed Republic on July 18, 2013.

8. SFR voluntarily dismissed Harned on February 6, 2014.

9. Chase's amended answer and counterclaim filed October 19, 2015 names
SFR as a defendant.

10. The Court entered summary judgment for SFR on Chase's counterclaim in the Summary Judgment Order.

11. Thus, the Summary Judgment Order resolves all claims between SFR and Chase.

12. To permit Chase to immediately pursue an appeal, SFR and Chase agree that the Court should direct the entry of a final judgment as between SFR and Chase pursuant to N.R.C.P. 54(b).

13. All the claims in this case have been resolved except for SFR's claims against defendant Venta.

14. SFR has obtained a default against Venta but has not yet obtained a default judgment.

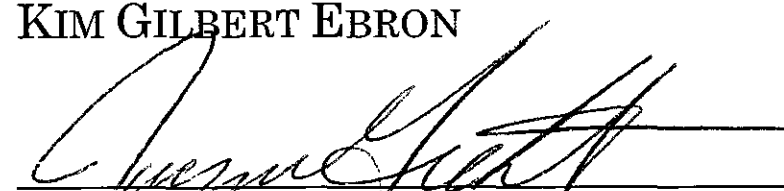
15. Venta was the original lender under the deed of trust serviced by Chase, but it appears to have no ongoing interest in the subject property.

16. In any event, if the Nevada Supreme Court upholds this Court's holding that the deed of trust was extinguished, then neither Chase nor Venta will have any ongoing interest in the subject property.

17. Accordingly, there is no just reason for delay and the Court should certify the Summary Judgment Order as a final judgment.

Dated December 15, 2016

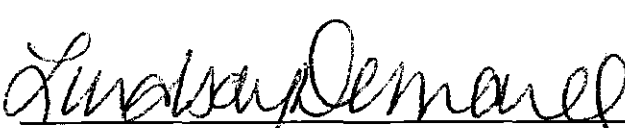
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Dated December 15, 2016

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Attorneys for JPMorgan Chase Bank, National Association

ORDER

Based on the foregoing stipulation and the papers on file herein, the Court finds there is no just reason for delay in entering a final judgment as between Plaintiff/Counter-Defendant SFR and Defendant/Counter-Claimant Chase. Accordingly:

IT IS HEREBY ORDERED that the *Findings of Fact, Conclusions of Law, and Order* filed October 26, 2016 constitute a final judgment as between SFR and Chase.

IT IS HEREBY FURTHER ORDERED that Chase may immediately pursue an appeal pursuant to N.R.C.P. 54(b).

Dated: December 16, 2016.

Nancy L. Allen
DISTRICT COURT JUDGE

Respectfully submitted by:

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