

**Case No. 73785**

IN THE SUPREME COURT OF NEVADA

BANK OF AMERICA, N.A., THE  
BANK OF NEW YORK MELLON  
F/K/A THE BANK OF NEW YORK  
MELLON AS TRUSTEE FOR THE  
CERTIFICATEHOLDERS OF THE  
CWABS, INC., ASSET-BACKED  
CERTIFICATES, SERIES 2005-17;  
AND MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.,

Appellants,

vs.

THOMAS JESSUP, LLC SERIES VII;  
FOXFIELD COMMUNITY  
ASSOCIATION; AND ABSOLUTE  
COLLECTION SERVICES, LLC,

Respondents.

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**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF  
IN SUPPORT OF RESPONDENT'S PETITION FOR REHEARING**

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### **NRAP 26.1 DISCLOSURE**

The undersigned counsel to amicus SFR Investments Pool 1, LLC (“SFR”) certifies that the following are persons and entities as described in NRAP 26.1(a) and must be disclosed. These representations are made so the judges of this court may evaluate possible disqualification or recusal.

SFR is a privately held Nevada limited liability company and there is no publicly held company that owns 10% or more of SFR Investments Pool 1, LLC’s stock.

Amicus SFR is represented by Jacqueline A. Gilbert, Esq., and Karen L. Hanks, Esq. of Kim Gilbert Ebron fka Howard Kim & Associates.

DATED this 1st day of April, 2018.

**KIM GILBERT EBRON**

/s/ Karen L. Hanks

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**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF  
RESPONDENT’S PETITION FOR REHEARING**

Pursuant to NRAP 29(c), SFR Investments Pool 1, LLC (“SFR”) respectfully requests leave to file an *amicus brief* in support of Thomas Jessup, LLC’s Petition for Rehearing.

**I. SFR’S INTEREST<sup>1</sup>**

SFR buys properties at association non-judicial foreclosure sales. *See SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. \_\_\_, 334 P.3d 408, 409-10 (2014). Many of these properties are the subject of lawsuits in Nevada’s state and federal courts.

SFR has a strong interest in the subject matter of this Court’s Opinion because it addresses the legal effect when a bank asks for information, but ultimately fails to send payment to an Association. This issue permeates hundreds of cases that SFR still has pending before this court on appeal and in the lower state and federal courts.

**II. THE REASONS WHY AN AMICUS BRIEF IS DESIRABLE.**

Respondent’s Petition focuses on the Court’s misapplication of the standard of review to the specific facts in the case. In contrast, SFR’s proposed amicus brief focuses on the misapplication of the cases and secondary sources relied on by the Court, and is therefore desirable because it addresses the general application.

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<sup>1</sup> NRAP 29(c)

Specifically, it analyzes each case relied on by the Court and walks through an analysis as to how these cases do not support the Court's holding as to excuse. It also addresses how this Court's decision in *Bank of America, N.A. v. SFR Investments Pool 1, LLC*, 427 P.3d 113 (Nev. 2018) already addresses the doctrine of "excuse" recognized by the cases relied on by this Court in its current Opinion, and explains how there is no need to extend this doctrine into territory where there is no delivery of payment.

### **CONCLUSION**

Based on the foregoing, SFR respectfully requests this Court grant it permission to file its amicus brief, a copy of which is being filed concurrently pursuant to NRAP 29(c) and this Court's instruction.

Respectfully submitted this 1st day of April, 2019.

**KIM GILBERT EBRON**

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**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 1st day of April, 2019. Electronic service of the foregoing **MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENT’S PETITION FOR REHEARING** was made pursuant to the Master Service List.

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Dated this 1st day of April, 2019.

/s/ Karen L. Hanks  
An employee of KIM GILBERT EBRON