

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 EN BANC RECONSIDERATION**

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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 16th day of May, 2019.

KIM GILBERT EBRON

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

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 En Banc Reconsideration.

I. SFR’S INTEREST¹

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 the Panel’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 Panel’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 Panel, and is therefore desirable because it addresses the general application.

¹ NRAP 29(c)

Specifically, it analyzes each case relied on by the Panel and walks through an analysis as to how these cases do not support the Panel'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 the Panel 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 16th day of May, 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 16th day of May, 2019. Electronic service of the foregoing **MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENT’S PETITION FOR EN BANC RECONSIDERATION** was made pursuant to the Master Service List.

Dated this 16th day of May, 2019.

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