

CLERK OF THE COURT

1 **ORDM**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 **SFR INVESTMENTS POOL 1, LLC,**

7 **Plaintiff,**

8 **vs.**

9 **U.S. BANK, N.A., LUCIA PARKS,**

10 **Defendants.**

CASE NO. A-13-678814-C
DEPT NO. XVIII

ORDER FOR DISMISSAL
AND CANCELLATION OF NOTICE
OF PENDENCY OF ACTION

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12
13 Defendant U.S. Bank N.A.'s Motion to Dismiss with Prejudice Plaintiff's
14 Complaint, and Motion to Expunge Lis Pendens, and Defendant Lucia Parks' Joinders
15 thereto came on for a hearing before the above-entitled Court on June 4, 2013, with Judge
16 David Barker presiding. The Court, having considered all of the pleadings on file herein,
17 and having considered the arguments of counsel, hereby finds as follows:

18 1. This matter concerns property commonly known as 2270 Nashville Avenue,
19 Henderson, Nevada, 89052, Parcel No. 178-19-712-012 (the "Property").

20 2. On or about January 5, 2006, Defendant Lucia Parks obtained title to the
21 Property through a Grant Bargain Sale Deed from Albert Brandelli and Mary Brandelli
22 which was recorded in the Clark County Recorder's Office. Parks executed a Deed of
23 Trust and Note whereby Wells Fargo Bank, N.A. was stated as the Lender and United Title
24 of Nevada as the Trustee under the Deed of Trust.

25 3. On or about February 24, 2010, a Notice of Default and Election to Sell
26 under Deed of Trust was recorded in the Clark County Recorder's Office.

27 4. On or about May 24, 2012, a Notice of Delinquent Assessment Lien was
28 recorded in the Clark County Recorder's Office.

DAVID BARKER

DISTRICT JUDGE
DEPARTMENT 18

1 5. On or about June 7, 2012, Wells Fargo Bank, N.A. recorded an Assignment
2 of Deed of Trust against the Property to U.S. Bank National Association ("U.S. Bank,
3 N.A."), as Trustee for Wells Fargo Asset Securities Corporation, Mortgage Pass-Through,
4 Certificates Series 2006-AR4 in the Clark County Recorder's Office.

5 6. On or about February 7, 2013, Nevada Association Services, Inc., agent for
6 Copper Ridge Community Homeowners Association ("HOA") recorded a Notice of
7 Trustee's Sale in the Clark County Recorder's Office.

8 7. On or about March 6, 2013, Plaintiff acquired the Property in a foreclosure
9 sale and the Foreclosure Deed was recorded in the Clark County Recorder's Office.

10 8. NRS 116.3116 governs homeowners' association liens. It states in part that
11 an assessment lien by a homeowners' association "is prior to all other liens and
12 encumbrances on a unit except...(b) A first security interest on the unit recorded before the
13 date on which the assessment sought to be enforced became delinquent..." NRS
14 116.3116(2)(b).

15 9. Here the first security interest Deed of Trust was first in time and prior to the
16 assessment lien of the homeowner's association.

17 10. While NRS 116.3116 provides that the assessment lien is prior to the first
18 security interest Deed "to the extent of any charges incurred by the association on a unit
19 pursuant to NRS 116.310312 and to the extent of the assessments for common expenses
20 based on the periodic budget adopted by the association pursuant to NRS 116.3115 which
21 would have become due in the absence of acceleration during the 9 months immediately
22 preceding institution of an action to enforce the lien," this provision refers to a judicial
23 foreclosure "action" and is not applicable when the HOA foreclosed its lien under NRS
24 116.31162-NRS 116.31168, the nonjudicial foreclosure statutes.

25 11. The HOA may have a priority for payment of its lien, but the first security
26 interest Deed was not extinguished by the foreclosure sale conducted by the HOA.
27
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12. Plaintiff cannot quiet title or obtain declaratory relief seeking to extinguish the first security interest Deed.

13. Plaintiff has not presented a viable basis upon which the Court could grant a preliminary or permanent injunction.

14. Plaintiff has not presented a viable claim for Unjust Enrichment.

IT IS THEREFORE ORDERED that Defendant U.S. Bank, N.A.'s Motion to Dismiss With Prejudice Plaintiff's Complaint is GRANTED. And, it is further

ORDERED, that Defendant Lucia Parks' Joinder in Defendant U.S. Bank, N.A.'s Motion to Dismiss With Prejudice Plaintiff's Complaint is GRANTED. And it is further

ORDERED, that Defendant U.S. Bank, N.A.'s Motion to Expunge Lis Pendens, joined by Defendant Lucia Parks, is GRANTED. And, it is further

ORDERED, that the notice of pendency of action is hereby cancelled, and this cancellation has the same effect as an expungement of the original notice. And it is further

ORDERED, that Plaintiff shall record with the Clark County Recorder a copy of this order of cancellation of the notice of pendency of action. And, it is further

ORDERED, that this case is dismissed in its entirety.

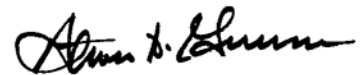
DATED this 11th day of June, 2013

DISTRICT JUDGE

I hereby certify that on the date filed, I mailed or placed a copy of this Order in the Attorney's folder in the Clerk's Office to:

Chelsea Crowton, Esq. (Wright, Finlay & Zak)
Diana Cline, Esq. (Howard Kim & Associates)
D. Chris Albright, Esq. (Albright, Stoddard, Warnick & Albright)

Diane Sanzo
DIANE SANZO, Judicial Assistant



CLERK OF THE COURT

1 **NEOJ**
2 **WRIGHT, FINLAY & ZAK, LLP**
3 **Chelsea A. Crowton, Esq.**
4 **Nevada Bar No. 11547**
5 **5532 South Fort Apache Road, Suite 110**
6 **Las Vegas, NV 89148**
7 **(702) 475-7964; Fax: (702) 946-1345**
8 **ccrowton@wrightlegal.net**
9 ***Attorney for Defendant,***
10 ***U.S. Bank, N.A., as Trustee for the Certificate Holders of Wells Fargo Asset Securities***
11 ***Corporation, Mortgage Pass-Through Certificates, Series 2006-AR4***

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 **SFR INVESTMENTS POOL, LLC, a Nevada**
11 **limited liability company**

Case No.: A-13-678814-C
Dept. No.: XVIII

12 **Plaintiff,**

NOTICE OF ENTRY OF ORDER

13 **vs.**

14 **US BANK, N.A., a national banking association**
15 **as Trustee for the Certificate Holders of Wells**
16 **Fargo Asset Securities Corporation, Mortgage**
17 **Pass-Through Certificates, Series 2006-AR4,**
18 **and LUCIA PARKS, an individual; DOES I**
19 **through X, and ROE CORPORATIONS I**
20 **through X, inclusive.**

21 **Defendants.**

22 **TO ALL INTERESTED PARTIES:**

23 **///**

24 **///**

25 **///**

26 **///**

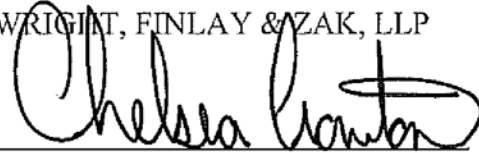
27 **///**

28 **///**

1 PLEASE TAKE NOTICE that an Order for Dismissal and Cancellation of Notice of
2 Pendency of Action was entered in the above-entitled Court on the 11th day of June, 2013, a copy
3 of which is attached hereto.

4 DATED this 12th day of June, 2013.

6 WRIGHT, FINLAY & ZAK, LLP

7 

8 Chelsea A. Crowton, Esq.

9 Nevada Bar No. 11547

10 5532 South Fort Apache Road, Suite 110

11 Las Vegas, NV 89148

12 *Attorney for Defendant, U.S. Bank, N.A., as Trustee*
13 *for the Certificate Holders of Wells Fargo Asset*
14 *Securities Corporation, Mortgage Pass-Through*
15 *Certificates, Series 2006-AR4*

14 **AFFIRMATION**

15 Pursuant to N.R.S. 239B.030

16 The undersigned does hereby affirm that the preceding **NOTICE OF ENTRY OF**
17 **ORDER** filed in Case No. A-13-678814-C **does not** contain the social security number of any
18 person.

19 DATED this 12th day of June, 2013.

21 WRIGHT, FINLAY & ZAK, LLP

22 

23 Chelsea A. Crowton, Esq.

24 Nevada Bar No. 11547

25 5532 South Fort Apache Road, Suite 110

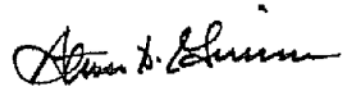
26 Las Vegas, NV 89148

27 *Attorney for Defendant, U.S. Bank, N.A., as Trustee*
28 *for the Certificate Holders of Wells Fargo Asset*
Securities Corporation, Mortgage Pass-Through
Certificates, Series 2006-AR4

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

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CLERK OF THE COURT

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6 SFR INVESTMENTS POOL 1, LLC,

7 Plaintiff,

CASE NO. A-13-678814-C
DEPT NO. XVIII

8 vs.

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ORDERED, that Plaintiff shall record with the Clark County Recorder a copy of this order of cancellation of the notice of pendency of action. And, it is further

ORDERED, that this case is dismissed in its entirety.

DATED this 11th day of June, 2013

DISTRICT JUDGE

I hereby certify that on the date filed, I mailed or placed a copy of this Order in the Attorney's folder in the Clerk's Office to:

Chelsea Crowton, Esq. (Wright, Finlay & Zak)
Diana Cline, Esq. (Howard Kim & Associates)
D. Chris Albright, Esq. (Albright, Stoddard, Warnick & Albright)

Diane Sanzo
DIANE SANZO, Judicial Assistant


CLERK OF THE COURT

NOAS

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Facsimile: (702) 485-3301
Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

Plaintiff,

vs.

U.S. BANK, N.A., a national banking
association as Trustee for the
Certificate Holders of Wells Fargo
Asset Securities Corporation, Mortgage
Pass-Through Certificates, Series 2006-
AR4, a Nevada non-profit corporation
and LUCIA PARKS, an individual,
DOES I through X; and ROE
CORPORATIONS I through X,
inclusive,

Defendants.

Case No.: A-13-678814-C

Dept. No.: XVIII

NOTICE OF APPEAL

Notice is hereby given that Plaintiff SFR Investment Pool I, LLC, by and through its attorneys of record, Howard Kim & Associates, hereby appeals to the Supreme Court of the State of Nevada from the following orders or judgments:

1. All judgements and orders in this case;

1 2. “Order Denying Plaintiff’s Motion for Preliminary Injunction”
2 entered on June 10, 2013, notice of entry of which was served on June 11, 2013;

3 3. “Order for Dismissal and Cancellation of Notice of Pendancy of
4 Action” entered on June 11, 2013, notice of entry of which was served on June 12,
5 2013.

6 3. All rulings and interlocutory orders made appealable by any of the
7 foregoing.

8 DATED this 11th day of July, 2013.
9
10

HOWARD KIM & ASSOCIATES

/s/ Jacqueline A. Gilbert

HOWARD C. KIM, ESQ.

Nevada Bar No. 10386

DIANA S. CLINE, ESQ.

Nevada Bar No. 10580

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Phone: (702) 485-3300

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IN THE SUPREME COURT OF THE STATE OF NEVADA

SFR INVESTMENTS POOL 1, LLC, A
NEVADA LIMITED LIABILITY COMPANY,
Appellant,
vs.

U.S. BANK, N.A., A NATIONAL BANKING
ASSOCIATION AS TRUSTEE FOR THE
CERTIFICATE HOLDERS OF WELLS FARGO
ASSET SECURITIES CORPORATION,
MARTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-AR4,
Respondent.

Supreme Court No. 63614
District Court Case No. A678814

FILED

DEC 10 2014

Tracie Lindeman
CLERK OF COURT

A-13-678814-C

CCJR

NV Supreme Court Clerks Certificate/Judgn
4419046



CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Tracie Lindeman, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"We VACATE the order denying preliminary injunctive relief, REVERSE the order granting the motion to dismiss, AND REMAND this matter for proceedings consistent with this order."

Judgment, as quoted above, entered this 3rd day of November, 2014.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
December 01, 2014.

Tracie Lindeman, Supreme Court Clerk

By: Rory Wunsch
Deputy Clerk



IN THE SUPREME COURT OF THE STATE OF NEVADA

SFR INVESTMENTS POOL 1, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Appellant,

vs.

U.S. BANK, N.A., A NATIONAL
BANKING ASSOCIATION AS
TRUSTEE FOR THE CERTIFICATE
HOLDERS OF WELLS FARGO ASSET
SECURITIES CORPORATION,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-AR4,
Respondent.

No. 63614

FILED

NOV 03 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Malone
DEPUTY CLERK

ORDER VACATING, REVERSING, AND REMANDING

This is an appeal from orders denying a preliminary injunction and granting a motion to dismiss in a quiet title action. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

The district court denied SFR Investments' motion for a preliminary injunction and subsequently granted U.S. Bank's motion to dismiss, finding that SFR Investments had failed to state a viable claim for relief because NRS 116.3116(2)'s superpriority provision "is not applicable when the HOA foreclosed its lien under NRS 116.31162- NRS 116.31168, the nonjudicial foreclosure statutes," and "the first security interest Deed was not extinguished by the foreclosure sale conducted by the HOA." This court's recent disposition in *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. ___, 334 P.3d 408 (2014), decides that a common-interest community association's NRS 116.3116(2) superpriority lien has true priority over a first security interest, and the association may nonjudicially foreclose on that lien. The district court's decisions thus

were based on an erroneous interpretation of the controlling law and did not reach the other issues colorably asserted. Accordingly, we

VACATE the order denying preliminary injunctive relief, REVERSE the order granting the motion to dismiss, AND REMAND this matter for proceedings consistent with this order.

Pickering, J.
Pickering

Saitta, J.
Saitta

PARRAGUIRRE, J., concurring:

For the reasons stated in the *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. ___, 334 P.3d 408 (2014), dissent, I disagree that respondent lost its lien priority by virtue of the homeowners association's nonjudicial foreclosure sale. I recognize, however, that *SFR Investments* is now the controlling law and, thusly, concur in the disposition of this appeal.

Parraguirre, J.
Parraguirre

cc: Hon. David B. Barker, District Judge
Howard Kim & Associates
Wright, Finlay & Zak, LLP/Las Vegas
Eighth District Court Clerk

CERTIFIED COPY

This document is a full, true and correct copy of
the original on file and of record in my office.

DATE: DECEMBER 13, 2014

Supreme Court Clerk, State of Nevada

By



Deputy

IN THE SUPREME COURT OF THE STATE OF NEVADA

SFR INVESTMENTS POOL 1, LLC, A
NEVADA LIMITED LIABILITY COMPANY,
Appellant,
vs.
U.S. BANK, N.A., A NATIONAL BANKING
ASSOCIATION AS TRUSTEE FOR THE
CERTIFICATE HOLDERS OF WELLS FARGO
ASSET SECURITIES CORPORATION,
MARTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-AR4,
Respondent.

Supreme Court No. 63614
District Court Case No. A678814

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: December 01, 2014

Tracie Lindeman, Clerk of Court

By: Rory Wunsch
Deputy Clerk

cc (without enclosures):

Hon. David B. Barker, District Judge
Howard Kim & Associates
Wright, Finlay & Zak, LLP/Las Vegas

RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on DEC 10 2014.

HEATHER UNGERMANN

Deputy District Court Clerk

RECEIVED

DEC 08 2014

CLERK OF THE COURT

CASE NO. 74532

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Jun 27 2018 03:42 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

Appellant,

vs.

U.S. BANK, N.A., A NATIONAL BANKING
ASSOCIATION AS TRUSTEE FOR THE
CERTIFICATE HOLDERS OF WELLS FARGO
ASSET SECURITIES CORPORATION,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-AR4; AND NV
WEST SERVICING, LLC, A NEVADA
LIMITED LIABILITY COMPANY, AS
TRUSTEE FOR NASHVILLE TRUST 2270,
RESPONDENTS.

Respondents.

RESPONDENT'S APPENDIX VOLUME III

ROBERT B. NOGGLE, ESQ.

Nevada Bar No.: 11427

NOGGLE LAW PLLC

5940 S. Rainbow Blvd Suite 1013

Las Vegas, Nevada 89118

Attorney for Respondent

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Supreme Court Judgment	RA 000232