

# IN THE SUPREME COURT OF THE STATE OF NEVADA

## INDICATE FULL CAPTION:

JPMORGAN CHASE BANK, N.A.,  
Appellant,

vs.

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

No. 77010

Electronically Filed  
Oct 12 2018 08:17 a.m.  
Elizabeth N. Brown  
Clerk of Supreme Court  
**DOCKETING**  
**CIVIL APPEALS**

## 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 24

County Clark Judge Jim Crockett

District Ct. Case No. A-13-692304-C

**2. Attorney filing this docketing statement:**

Attorney Holly Ann Priest Telephone (702) 471-7000

Firm Ballard Spahr LLP

Address 1980 Festival Plaza Dr., Suite 900  
Las Vegas, Nevada 89135

Client(s) Appellant JPMorgan Chase Bank, N.A.

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 Diana S. Ebron Telephone (702) 485-3300

Firm Kim Gilbert Ebron

Address 7625 Dean Martin Drive, Suite 100  
Las Vegas, Nevada 89139

Client(s) Respondent SFR Investments Pool 1, LLC

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:

JPMorgan Chase Bank, N.A., Appellant v. SFR Investments Pool 1, LLC, Respondent,  
Supreme Court Case No. 71337

**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:  
None.

**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 3263 Morning Springs Drive, Henderson, Nevada, 89074 (the "Property"). SFR was purportedly the highest bidder at the foreclosure sale. At the time of the sale, Chase was servicing the loan associated with the Property on behalf of the Federal Home Loan Mortgage Corporation, the owner of the loan and deed of trust. Robert M. Hawkins and Christine V. Hawkins were the record owners of the Property at the time of the sale. Chase and SFR brought claims for declaratory relief and quiet title. SFR moved for summary judgment against Chase and the Court granted SFR's motion. Chase filed its first Notice of Appeal on 2/16/18. A Stipulation to Remand the appeal was filed by Chase and SFR. As a result of the stipulation, on April 13, 2018, SFR and Chase refiled summary judgment motions. The Court granted SFR's motion.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Did the district court err by holding, at the summary judgment stage, that the HOA foreclosure sale extinguished the deed of trust owned by the Federal Home Loan Mortgage Corporation ("Freddie Mac") and serviced by Chase?

**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:

The following cases raise an issue similar to the issue identified in Question No. 9:

- Citimortgage, Inc. v. SFR Invs. Pool 1, LLC, No. 70237
- JPMorgan Chase Bank, N.A. v. SFR Invs. Pool 1, LLC, No. 70423
- JPMorgan Chase Bank, Nat'l Ass'n v. SFR Invs. Pool 1, LLC, No. 76952
- Ferrell Street Trust v. Majed Massis, 76351
- White Lantern, LLC v. PHH Mortgage Corporation, 76299
- Saticoy Bay LLC v. JPMorgan Chase Bank, N.A., 73652

**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 identified in Chase's response to Question 9 raise questions under the United States and Nevada Constitutions.

**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:

N/A

**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** Aug 15, 2018

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** Aug 16, 2018

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** Sep 17, 2018

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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 Hawkinses were dismissed from the case in a stipulation and order filed April 23, 2014. Therefore, the district court's August 15, 2018 order entering summary judgment in favor of SFR and against Chase is an appealable final judgment.



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

(a) Parties:

JPMorgan Chase Bank, N.A. - Plaintiff/Counter-Defendant  
SFR Investments Pool 1, LLC - Defendant/Counter-Claimaint  
Robert Hawkins - Counter-Defendant  
Christine Hawkins - Counter-Defendant

(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:

Robert and Christine Hawkins were dismissed in a stipulation and order filed April 23, 2014.

**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.**

Chase's operative complaint filed March 9, 2016 includes claims against SFR for declaratory relief, quiet title, and unjust enrichment. These claims were resolved by the August 23, 2016 summary judgment order. SFR's operative counterclaim filed March 20, 2014 includes claims for "declaratory relief/quiet title" and "preliminary and permanent injunction" against Chase and the Hawkinses. SFR's claims against the Hawkinses were resolved by the April 23, 2014 stipulation and order. SFR's claims against Chase were resolved by the August 15, 2018 summary judgment order.

**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:

(b) Specify the parties remaining below:

(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, NA  
Name of appellant

Holly Ann Priest  
Name of counsel of record

Oct 11, 2018  
Date

/s/ Holly Ann Priest  
Signature of counsel of record

Clark County, Nevada  
State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 11th day of October, 2018, 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.)

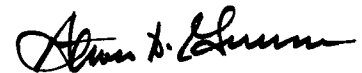
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Jacqueline A. Gilbert  
Karen L. Hanks  
Kim Gilbert Ebron  
7625 Dean Martin Drive, Suite 110  
Las Vegas, Nevada 89139  
Attorneys for SFR Investments Pool 1, LLC

Dated this 11th day of October, 2018

/s/ C. Wells  
Signature

# **EXHIBIT 1**

# **EXHIBIT 1**



CLERK OF THE COURT

1 ACOM  
Abran E. Vigil  
2 Nevada Bar No. 7548  
Russell J. Burke  
3 Nevada Bar No. 12710  
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9 *Attorneys for Plaintiff and Counter-Defendant*  
10 *JPMorgan Chase Bank N.A.*

11 DISTRICT COURT  
CLARK COUNTY, NEVADA

12 JPMORGAN CHASE BANK, NATIONAL )  
ASSOCIATION, a national association, )

CASE NO. A-13-692304-C

13 Plaintiff,

DEPT NO. XXIV

14 vs.

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

16 Defendants. )

17 SFR INVESTMENTS POOL 1, LLC a )  
18 Nevada limited liability company, )

19 Counter-Claimant, )

20 vs. )

21 JPMORGAN CHASE BANK NATIONAL )  
ASSOCIATION, a national association; )  
22 ROBERT M. HAWKINS, an individual; )  
CHRISTINE V. HAWKINS, an individual; )  
23 DOES 1-10 and ROE BUSINESS )  
ENTITIES 1 through 10, inclusive, )

24 Counter-Defendant/Cross- )  
25 Defendants. )  
26 )  
27 )  
28 )

BALLARD SPAHR LLP  
100 NORTH CITY PARKWAY, SUITE 1750  
LAS VEGAS, NEVADA 89106  
(702) 471-7000 FAX (702) 471-7070

1 AMENDED COMPLAINT

2 Plaintiff JPMorgan Chase Bank, N.A. ("Chase"), by and through its counsel of  
3 record, hereby complain against Defendant SFR Investments Pool 1, LLC ("SFR") in  
4 this Amended Complaint as follows:

5 I.

6 PARTIES, JURISDICTION AND VENUE

7 1. Chase is a national banking association headquartered in Ohio and  
8 doing business in Clark County.

9 2. Upon information and belief, SFR is a Nevada limited liability company  
10 whose principal place of business in Nevada.

11 3. The real property that is the subject matter of this action is situated in  
12 Clark County, Nevada.

13 4. This Court has personal jurisdiction over SFR because SFR is a Nevada  
14 limited liability company and because this lawsuit arises out of and is connected with  
15 SFR's purposeful purchase of an interest in real property situated in Clark County,  
16 Nevada.

17 5. Venue is proper with this district pursuant to NRS 13.010 because the  
18 property at issue in this action is located in Clark County.

19 6. Venue is also proper in this district pursuant to NRS 13.040 because  
20 SFR resides in this district.

21 II.

22 GENERAL ALLEGATIONS

23 *The Property and the Deed of Trust*

24 7. This action related to the parties' rights in that certain real property  
25 commonly described as 3263 Morning Springs Dr., Henderson, Nevada, 89074; APN  
26 177-24-514-043 (the "Property"). The Property is legally described as:  
27 Lot Fifty (50) in Block Ten (10) of SEASONS AT PEBBLE  
28 CANYON, as shown by map thereof on file in Book 53 of  
Plats, Page 45, in the Office of the County Recorded of  
Clark County, Nevada.

1           11. On or about June 12, 2006, upon information and belief, the Property  
2 was conveyed from Nathan Van Noy to Robert and Christine Hawkins (the  
3 "Borrowers").

4           12. On or about June 12, 2006, a Deed of Trust (the "Deed of Trust")  
5 securing a loan in the amount of \$240,000 (the "Hawkins Loan") was recorded as  
6 Book and Instrument Number 20060612-0003526 in the Official Records of the Clark  
7 County Recorder, showing: the Borrowers as borrowers; GreenPoint Mortgage  
8 Funding, Inc. as lender; Mortgage Electronic Registration Systems, Inc. ("MERS") as  
9 the beneficiary as nominee for Lender and Lender's successor and assigns; and Marin  
10 Conveyancing Corp. as trustee.

11           13. On or about June 20, 2006, Federal Home Loan Mortgage Corporation  
12 ("Freddie Mac") purchased the Hawkins Loan, and thereby acquired ownership of  
13 both the note and Deed of Trust. Chase became Freddie Mac's servicer for the  
14 Hawkins Loan.

15           a. The relationship between Chase, as the servicer of the Loan, and  
16 Freddie Mac, as owner of the Loan, was governed by Freddie Mac's Single-Family  
17 Seller/Servicer Guide (the "Guide"). The Guide serves as a central governing  
18 document for Freddie Mac's relationship with servicers nationwide. See Guide at  
19 1.2(a), [www.freddiemac.com/singlefamily/guide](http://www.freddiemac.com/singlefamily/guide).

20           b. The Guide provides that:  
21 For each Mortgage purchased by Freddie Mac, the Seller and the Servicer agree that  
22 *Freddie Mac may, at any time and without limitation, require the Seller or the*  
23 *Servicer, at the Seller's or the Servicer's expense, to make such endorsements to and*  
24 *assignments and recordations of any of the Mortgage documents so as to reflect the*  
25 *interests of Freddie Mac.*

26 Guide at 6.6 (emphasis added), [www.freddiemac.com/singlefamily/guide](http://www.freddiemac.com/singlefamily/guide).

27           c. The Guide also provides that:  
28 The Seller/Servicer is not required to prepare an assignment of the Security

1 Instrument to the Federal Home Loan Mortgage Corporation (Freddie Mac).  
2 However, *Freddie Mac may, at its sole discretion and at any time, require a*  
3 *Seller/Servicer, at the Seller/Servicer's expense, to prepare execute and/or record*  
4 *assignments of the Security Instrument to Freddie Mac.*

5 Guide at 22.14 (emphasis added), [www.freddiemac.com/singlefamily/guide](http://www.freddiemac.com/singlefamily/guide).

6 14. On or about July 1, 2009, the Borrowers defaulted under the Hawkins  
7 Loan and Deed of Trust.

8 15. On or about October 27, 2009, an Assignment of Deed of Trust was  
9 recorded as Book and Instrument Number 20091027-0000618 in the Official Records  
10 of the Clark County Recorder whereby MERS assigned the Deed of Trust to Chase.

11 ***The HOA Foreclosure and SFR's Purported Acquisition of the Property***

12 16. Upon information and belief, the Property is subject to a Declaration of  
13 Covenants, Conditions, and Restrictions (the "CC&Rs") for Pebble Canyon  
14 Homeowners Association ("HOA"). The CC&Rs were recorded in the Official Records  
15 of the Clark County Recorder on or about November 8, 1991, as Book and Instrument  
16 Number 911108-01962.

17 17. Upon information and belief, Nevada Association Services, Inc. ("NAS")  
18 is the agent of the HOA and acted as the foreclosure trustee and/or agent, which  
19 allegedly mailed and served the foreclosure notices, if any.

20 18. On or about August 3, 2012, a Notice of Delinquent Assessment Lien  
21 was recorded by NAS as Book and Instrument Number 20120803-0002972 in the  
22 Official Records of the Clark County Recorder. The Notice of Delinquent Assessment  
23 Lien states that the "[t]otal amount due as of today's date is \$1,333.00. This amount  
24 includes late fees, collection fees and interest in the amount of \$982.00."

25 19. On or about September 20, 2012, a Notice of Default and Election to Sell  
26 Under Homeowners Association Lien was recorded by NAS as Book and Instrument  
27 Number 20120920-0001446 in the Official Records of the Clark County Recorder.  
28 The Notice of Default and Election to Sell Under Homeowners Association Lien



1 states in part that the allegedly past due "amount is \$2,126.00 as of September 15,  
2 2012."

3 20. On or about February 7, 2013, NAS recorded a Notice of Foreclosure  
4 Sale as Book and Instrument Number 20130207-0000892 in the Official Records of  
5 the Clark County Recorder. The Notice of Sale states that the "[t]otal amount of the  
6 unpaid balance of the obligation secured by the property to be sold and reasonable  
7 estimated costs, expenses and advances at the time of the initial publication of the  
8 Notice of Sale is \$3,142.43."

9 21. On or about March 1, 2013, NAS conducted a foreclosure sale of the  
10 Property ("HOA Sale").

11 22. Upon information and belief, SFR bid \$3,700 for the Property at the  
12 foreclosure sale.

13 23. Upon information and belief, at the time of the HOA Sale, the fair  
14 market value of the Property was approximately \$123,000.

15 24. The amount that SFR paid for the Property was grossly inadequate  
16 when compared to the fair market value of the Property at the time of the HOA Sale.

17 24. On or about March 6, 2013, NAS recorded a Foreclosure Deed on the  
18 Property as Book and Instrument Number 20130306-0001648 in the Official Records  
19 of the Clark County Recorder.

20 26. After the date of the HOA Sale and recordation of the Foreclosure Deed,  
21 Chase continued to advance property preservation payments, including but not  
22 limited to payment of taxes and homeowners' insurance.

23 27. Neither the Notice of Delinquent Assessment Lien, Notice of Default  
24 and Election to Sell Under Homeowners Association Lien, or the Notice of Sale  
25 (collectively, the "HOA Assessment Lien and Foreclosure Notices") provided any  
26 notice of a right to cure by Plaintiff.

27 28. None of the HOA Assessment Lien and Foreclosure Notices specified  
28 what portion, if any, that the HOA claimed constituted a "super-priority."

1           29.   None of the HOA Assessment Lien and Foreclosure Notices specified  
2 whether the HOA was foreclosing on the "super-priority" portion of its lien, if any, or  
3 under the sub-priority lien.

4           30.   Upon information and belief, Chase did not receive notice of all of the  
5 HOA Assessment Lien and Foreclosure Notices prior to the HOA Sale.

6           31.   The HOA Sale deprived Chase of its right to due process.

7           32.   The HOA is estopped from claiming that the first Deed of Trust was  
8 extinguished by the HOA Sale.

9           33.   Under NRS Chapter 116, a lien under NRS 116.3116(1) can only include  
10 costs and fees that are specifically enumerated in the statute.

11           34.   A homeowners association may only collect as a part of the super-  
12 priority lien (a) nuisance abatement charges incurred by the association pursuant to  
13 NRS 116.310312 and (b) nine months of common assessments which became due  
14 prior to the institution of an action to enforce the lien.

15           35.   Upon information and belief, the HOA Assessment Lien and Foreclosure  
16 Notices included improper fees and costs in the amount demanded.

17           36.   The attorney's fees and costs of collecting on a homeowners association  
18 lien cannot be included in the super-priority lien amount.

19           37.   Upon information and belief, the HOA Assessment Lien and Foreclosure  
20 Notices included fines, interest, late fees, dues, attorney's fees, and costs of collection  
21 that are not properly included in a super-priority lien under Nevada law and that are  
22 not permissible under NRS 116.3102 *et seq.*

23           38.   Upon information and belief, the unpaid principle balance under the  
24 Hawkins Loan and Deed of Trust is at least \$198,136.50.

25           39.   SFR maintains that it has an interest in the Property.  
26  
27  
28

III.

FIRST CAUSE OF ACTION

(Declaratory Relief)

40. Chase repeats and re-alleges the preceding paragraphs as fully set forth herein and incorporates the same by reference.

41. Pursuant to NRS 40.010, this Court has the power and authority to declare Chase's rights and interest in the Property.

42. The Deed of Trust is a first secured interest on the Property and is superior to the interest, if any, acquired by SFR.

43. SFR claims an interest in the Property adverse to the interest of Chase and Freddie Mac.

44. SFR did not comply with NRS Chapter 116, including, but not limited to, providing notice of the HOA Sale to Chase. The HOA Sale is void and should be rescinded on that basis.

45. The HOA Sale is void and should be rescinded on the basis that it did not provide due process to Chase.

46. SFR's claim of free and clear title to the Property is barred by 12 U.S.C. § 4617(j)(3), which precludes a homeowners association sale from extinguishing Freddie Mac's interest in the Deed of Trust and preempts any state law to the contrary.

47. The amount paid by SFR for the Property is grossly inadequate when compared to the fair market value of the Property at the time of the HOA Sale.

48. For all the reasons set forth above in the General Allegations, Chase is entitled to a declaration from this Court, pursuant to NRS 40.010, that a first position Deed of Trust encumbered the Property and Chase's interest is superior to the interest held by SFR, if any, and all other parties.

**SECOND CAUSE OF ACTION**

**(Quiet Title)**

49. Chase repeats and re-alleges the preceding paragraphs as though fully set forth herein and incorporates the same by reference.

50. Pursuant NRS 40.010, this Court has the power and authority to declare Chase's rights and interests in the Property.

51. The Deed of Trust is a first secured interest on the Property and is superior to the interest, if any, acquired by SFR.

52. SFR claims an interest in the Property that is adverse to the interest of Chase and Freddie Mac.

53. SFR did not comply with NRS Chapter 116, including, but not limited to, providing notice of the HOA Sale.

54. SFR's claim of free and clear title to the Property is barred by 12 U.S.C. § 4617(j)(3), which precludes a homeowners association sale from extinguishing Freddie Mac's interest in the Deed of Trust and preempts any state law to the contrary.

55. For all the reasons set forth above in the General Allegations, Chase is entitled to a declaration from this Court, pursuant NRS 40.010, that a Deed of Trust encumbered the Property and is superior to the interest held by SFR, if any, and all other parties. Chase has furthermore been required to retain counsel and is entitled to recover reasonable attorney's fees and costs.

**THIRD CAUSE OF ACTION**

**(Unjust enrichment)**

56. Chase repeats and re-alleges the preceding paragraphs as though fully set forth herein and incorporate the same by reference.

57. The HOA Sale unjustly enriched SFR, in that it obtained real property secured by the Deed of Trust with a grossly inadequate purchase price of \$3,700 to

1 the detriment of Chase, and contrary to fundamental principles of fairness, justice,  
2 and fair dealing.

3 58. If it is determined that the Deed of Trust has been extinguished by the  
4 HOA Sale, SFR has been unjustly enriched, in that Chase (as servicer) has continued  
5 to expend funds and resources to maintain and preserve the Property, including but  
6 not limited to funds for taxes and insurance to the detriment of Chase, and contrary  
7 to fundamental principles of fairness, justice, and fair dealing.

8 59. Chase is entitled to recoup the reasonable amount of benefits obtained  
9 by SFR based on the theory of unjust enrichment.

10 60. Chase has furthermore been required to retain counsel and is entitled to  
11 recover reasonable attorney's fees and costs.

12 IV.

13 PRAYER

14 Wherefore, Chase prays for judgment against SFR, as follows:

- 15 1. For a declaration and determination that the first position Deed of Trust  
16 was not extinguished by the HOA sale.
- 17 2. For a declaration and determination that the HOA sale did not convey  
18 the Property free and clear to SFR;
- 19 3. For a declaration and determination that Chase's interest is superior to  
20 the interest of SFR;
- 21 4. For a preliminary and permanent injunction that SFR, its successors,  
22 assigns, and agents are prohibited from conducting any sale, transfer or  
23 encumbrance of the Property;
- 24 5. For a preliminary injunction that SFR, its successors and assigns, be  
25 required to pay all taxes, insurance and homeowners association dues  
26 during the pendency of this action;
- 27 6. For a preliminary and permanent injunction that SFR, its successors  
28 and assigns, pay all taxes, insurance and homeowners association dues

1 during the pendency of this action;

2 7. If it is determined that the Deed of Trust has been extinguished by the  
3 HOA sale, for special damages in the amount of the fair market value of  
4 the Property or the unpaid balance of the Loan and Deed of Trust, at the  
5 time of the HOA sale, whichever is greater;

6 8. For all fees and costs of court incurred herein, including post-judgment  
7 costs; and

8 9. For any and all further relief deemed appropriate by this Court.

9 DATED this 8 day of March, 2016.

10 BALLARD SPAHR LLP

11 By: 

12 Abran E. Vigil  
13 Nevada Bar No. 7548  
14 Russell J. Burke  
15 Nevada Bar No. 12710  
16 Holly Ann Priest  
17 Nevada Bar No. 13226  
18 BALLARD SPAHR LLP  
19 100 North City Parkway, Suite 1750  
20 Las Vegas, Nevada 89106-4617

21 *Attorneys for Plaintiff and Counter-*  
22 *Defendant JPMorgan Chase Bank N.A.*  
23  
24  
25  
26  
27  
28

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 9<sup>th</sup> day of March, 2016, and pursuant to N.R.C.P. 5(b), a true and correct copy of the foregoing Amended Complaint, was served to the following parties 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	
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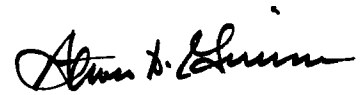
- ☐ HAND DELIVERY
- ☐ E-MAIL TRANSMISSION
- ☐ U.S. MAIL, POSTAGE PREPAID
- ☐ Certified Mail, Receipt No. \_\_\_\_\_,  
Return receipt requested
- ☒ Via the Wiznet E-Service-generated "Service Notification of Filing" upon all counsel set up to receive notice via electronic service in this matter

  
An employee of BALLARD SPAHR LLP

# **EXHIBIT 2**

# **EXHIBIT 2**





CLERK OF THE COURT

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Attorneys for Defendant/Counter-claimant  
SFR Investments Pool 1, LLC

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a  
Nevada limited liability company; DOES 1  
through 10; and ROE BUSINESS ENTITIES  
1 through 10, inclusive,

Defendants.

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

Counter-Claimant,

vs.

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association;  
ROBERT M. HAWKINS, an individual;  
CHRISTINE V. HAWKINS, an individual;  
DOES 1 10 and ROE BUSINESS ENTITIES  
1 through 10 inclusive,

Counter-Defendant/Cross-Defendants.

Case No. A-13-692304-C

Dept. No. XVIII

**AMENDED ANSWER, COUNTERCLAIM  
AND CROSS-CLAIM**

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

Plaintiff SFR INVESTMENTS POOL 1, LLC (“SFR” or “Defendant”), hereby files an amended answer to JPMORGAN CHASE BANK, NATIONAL ASSOCIATION’s (“Chase”) Complaint as follows:

**PARTIES AND JURISDICTION**

1. Answering paragraph 1 of the complaint, SFR admits upon information and belief, that the subject matter of Chase’s complaint is real property commonly known as **3263 Morning Springs Drive, Henderson, NV 89074**. The remaining allegations in paragraph 1 of the complaint call for a legal conclusion, therefore, no answer is required. To the extent an answer is required, SFR denies the factual allegations contained in paragraph 1 of the complaint.

2. SFR is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in paragraph 2 of the complaint, and therefore denies said allegations.

3. SFR admits the factual allegations contained in paragraph 3 of the complaint.

4. SFR is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in paragraphs 4 and 5 of the complaint, and therefore denies said allegations.

5. SFR admits the factual allegations contained in paragraphs 6 and 7 of the complaint.

**GENERAL ALLEGATIONS**

6. SFR is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in paragraphs 8, 9, 10 and 11 of the complaint, and therefore denies said allegations.

7. SFR admits the factual allegations contained in paragraph 12 of the complaint.

8. SFR is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in paragraph 13 of the complaint, and therefore denies said allegations.

9. SFR admits the factual allegations contained in paragraph 14 of the complaint.

**FIRST CAUSE OF ACTION**

**(Declaratory Relief)**

10. SFR repeats and realleges its answers to paragraphs 1 through 14 of the complaint as though fully set forth herein.

11. SFR admits the factual allegations contained in paragraphs 16 and 17 of the complaint.

12. The allegations contained in paragraphs 18, 19 and 20 of the complaint call for a legal conclusion, therefore, no answer is required. To the extent an answer is required, SFR denies the factual allegations contained in paragraphs 18, 19 and 20 of the complaint.

13. SFR denies the factual allegations contained in paragraph 21 of the complaint.

**SECOND CAUSE OF ACTION**

**(Quiet Title)**

14. SFR repeats and realleges its answers to paragraphs 1 through 21 of the complaint as though fully set forth herein.

15. The allegations contained in paragraphs 23 and 24 of the complaint call for a legal conclusion, therefore, no answer is required. To the extent an answer is required, SFR denies the factual allegations contained in paragraphs 23 and 24 of the complaint.

16. SFR denies the factual allegations contained in paragraph 25 of the complaint.

**AFFIRMATIVE DEFENSES**

1. Chase fails to state a claim upon which relief may be granted.

2. Chase is not entitled to relief from or against SFR, as Chase has not sustained any loss, injury, or damage that resulted from any act, omission, or breach by SFR.

3. The occurrence referred to in the Complaint, and all injuries and damages, if any, resulting therefrom, were caused by the acts or omissions of Chase.

4. The occurrence referred to in the Complaint, and all injuries and damages, if any, resulting therefrom, were caused by the acts or omissions of a third party or parties over whom SFR had no control.

5. SFR did not breach any statutory or common law duties allegedly owed to Chase.

6. Chase's claims are barred because SFR complied with applicable statutes and with the

requirements and regulations of the State of Nevada.

7. Chase's causes of action are barred in whole or in part by the applicable statutes of limitations or repose, or by the equitable doctrines of laches, waiver, estoppel, and ratification.

8. Chase is not entitled to equitable relief because it has an adequate remedy at law.

9. Chase has no standing to enforce the first deed of trust and the underlying promissory note.

10. The first deed of trust and other subordinate interests in the Property were extinguished by the Association foreclosure sale held in accordance with NRS Chapter 116.

11. Pursuant to Nevada Rule of Civil Procedure 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry at the time of filing this Answer. Therefore, SFR reserves the right to amend this Answer to assert any affirmative defenses if subsequent investigation warrants.

### COUNTERCLAIM AND CROSS-CLAIM

### FOR QUIET TITLE AND INJUNCTIVE RELIEF

SFR INVESTMENTS POOL 1, LLC ("SFR"), hereby demands quiet title and requests injunctive relief against Counter-Defendant, JPMORGAN CHASE BANK, NATIONAL ASSOCIATION's ("Chase"), Counter Defendant and ROBERT M. HAWKINS, an individual; CHRISTINE V. HAWKINS, an individual; DOES 1 through 10 and ROE BUSINESS ENTITIES 1 through 10 inclusive, Cross-Defendants as follows:

### I. PARTIES

1. SFR 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 **3263 Morning Springs Drive, Henderson, NV 89074; Parcel No. 177-24-514-043** (the "Property").

2. Upon information and belief, Counter-Defendant JPMORGAN CHASE BANK, NATIONAL ASSOCIATION ("Chase"), is a national association that may claim an interest in the Property via a 2006 deed of trust originated by GreenPoint Mortgage Funding, Inc.

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

16     **SFR Acquired Title to the Property through Foreclosure of an Association Lien with Super**  
17     **Priority Amounts**

7. On or about March 6, 2013, the resulting foreclosure deed was recorded in the Official Records of the Clark County Recorder as Instrument Number 201303060001648 (“Association Foreclosure Deed”).

28 9. The foreclosure sale was conducted by Nevada Association Services, Inc. (“NAS”), agent

1 for the Association pursuant to the powers conferred by the Nevada Revised Statutes 116.3116,  
2 116.31162-116.31168, the Association's governing documents (CC&R's) and a Notice of  
3 Delinquent Assessments, recorded on August 3, 2012 in the Official Records of the Clark  
4 County Recorder as Instrument Number 201208030002872.

5 10. As recited in the Association Foreclosure Deed, the Association foreclosure sale  
6 complied with all requirements of law, including but not limited to, recording and mailing of  
7 copies of Notice of Delinquent Assessment and Notice of Default, and the recording, posting and  
8 publication of the Notice of Sale.

9 11. Pursuant to NRS 116.3116(2), the entire Association Lien

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

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

13 (b) A first security interest on the unit recorded before the date on which the  
14 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

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

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

18 [the Association Lien] is also prior to all security interests described in paragraph  
19 (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  
20 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  
21 9 months immediately preceding institution of an action to enforce the lien[.]

22 13. Pursuant to NRS 116.1104, the provisions of NRS 116.3116(2) granting priority cannot  
23 be waived by agreement or contract, including any subordination clause in the CC&Rs.

24 14. According to NRS 116.1108, real property law principles supplement the provisions of  
NRS 116.

25  
26 15. Upon information and belief, the Association took the necessary action to trigger the  
27 super-priority portion of the Association Lien.

28 16. Upon information and belief, no party still claiming an interest in the Property recorded a

1 lien or encumbrance prior to the declaration creating the Association.

2 17. Upon information and belief, SFR's bid on the Property was in excess of the amount  
3 necessary to satisfy the costs of sale and the super-priority portion of the Association Lien.

4 18. Upon information and belief, the Association or its agent NAS has distributed or are  
5 attempting to distribute the excess funds to lien holders in order of priority pursuant to NRS  
6 116.31164(c).

7 19. Upon information and belief, Counter-Defendant and Cross-Defendants had actual or  
8 constructive notice of the requirement to pay assessments to the Association and of the  
9 Association Lien.

10 20. Upon information and belief, Counter-Defendant and Cross-Defendants had actual or  
11 constructive notice of the Association's foreclosure proceedings.

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

14 22. Upon information and belief, Counter-Defendant Chase had actual or constructive notice  
15 of the super-priority portion of the Association Lien.

16 23. Upon information and belief, Counter-Defendant Chase knew or should have known that  
17 its interest in the Property could be extinguished through foreclosure if he failed to cure the  
18 super-priority portion of the Association Lien representing 9 months of assessments for common  
19 expenses based on the periodic budget adopted by the association which would have become due  
20 in the absence of acceleration for the relevant time period.

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

25 25. SFR learned of the Association foreclosure sale through public notices.

26 26. Multiple bidders attended the public auction, which was held at the same time, day and  
27 place that NAS generally conducts such auctions.

28 27. SFR is a bona fide purchaser.

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

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

29. Upon information and belief, the Hawkinses, first obtained title to the Property in June of 2006 through a Grant, Bargain Sale Deed from Nathan VanNoy recorded against the Property in the Official Records of the Clark County Recorder as Instrument No. 200606120003525.

30. On or about June 12, 2006, GreenPoint Mortgage Funding, Inc. (“GreenPoint”) recorded a deed of trust against the Property in the Official Records of the Clark County Recorder as Instrument No. 200606120003526 (“First Deed of Trust”).

31. Upon information and belief, the Association was formed and its declaration of CC&Rs was recorded in the Official Records of the Clark County Recorder before the First Deed of Trust was recorded.

32. Upon information and belief, GreenPoint had actual or constructive notice of the Association Lien and NRS 116.3116 before it funded the loan secured by the First Deed of Trust.

33. The First Deed of Trust contains a Planned Unit Development Rider recognizing the applicability of Association’s declaration of CC&Rs that were recorded.

34. Upon information and belief, on October 26, 2009, Colleen Irby, Officer for Mortgage Electronic Registration Systems, Inc. (“MERS”) executed an assignment that transferred the beneficial interest in the First Deed of Trust, together with the underlying promissory note to Chase. The assignment was recorded on October 27, 2009 against the Property in Official Records of the Clark County Recorder as Instrument No. 200910270000618.

35. Upon information and belief, Chase had actual or constructive notice of the Association Lien and NRS 116.3116 before it obtained an interest in the First Deed of Trust.

36. On or about October 27, 2009, Chase recorded a document substituting California Reconveyance Company (“CRC”) as trustee of the First Deed of Trust.

37. On or about October 27, 2009, CRC recorded a notice of default pursuant to the First Deed of Trust for amounts that became due on July 1, 2009 in the Official Records of the Clark



County Recorder as Instrument No. 200910270000620.

38. On or about, November 27, 2013, Chase filed a Complaint for declaratory relief and quiet title.

39. Counter-Defendant Chase's interest in the Property was extinguished by the foreclosure of the Association Lien.

40. Cross Defendants, the Hawkinses' interest in the Property was extinguished by the foreclosure of the super priority portion of the Association Lien.

**III. FIRST CLAIM FOR RELIEF**  
**(Declaratory Relief/Quiet Title Pursuant to NRS 30.010, et. seq., NRS 40.10 & NRS 116.3116)**

41. SFR repeats and realleges the allegations of paragraphs 1-40 as though fully set forth herein and incorporates the same by reference.

42. Pursuant to NRS 30.010, et. seq. and NRS 40.10, this Court has the power and authority to declare the SFR's rights and interests in the Property and to resolve the Counter-Defendant and Cross-Defendants' adverse claims in the Property.

43. SFR acquired the Property on March 1, 2013 by successfully bidding on the Property at a publicly-held foreclosure auction in accordance with NRS 116.3116, et. seq. and the resulting Association Foreclosure Deed vesting title in SFR was recorded on March 6, 2013.

44. Upon information and belief, Counter Defendant, Chase may claim an interest in the Property via the First Deed of Trust against the Property even after the Association foreclosure sale.

45. Upon information and belief, Cross-Defendants, the Hawkinses, may claim an ownership interest in the Property.

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

47. Pursuant to NRS 116.3116(2), the super-priority portion of the Association Lien has priority over the First Deed of Trust.

48. Counter-Defendant and Cross-Defendants were duly notified of the Association

1 foreclosure sale and failed to act to protect their interests in the Property, if any legitimately  
2 existed.

3 49. SFR is entitled to a declaratory judgment from this Court finding that: (1) SFR is the title  
4 owner of the Property; (2) the Association Foreclosure Deed is valid and enforceable; (3) the  
5 Association foreclosure sale extinguished Counter-Defendant and Cross-Defendants' ownership  
6 and security interests in the Property; and (4) SFR's rights and interest in the Property are  
7 superior to any adverse interest claimed by Counter-Defendant and Cross-Defendants.

8 50. SFR seeks an order from the Court quieting title to the Property in favor of SFR.

9 **IV. SECOND CLAIM FOR RELIEF**  
10 **(Preliminary and Permanent Injunction)**

11 51. SFR repeats and realleges the allegations of paragraphs 1-50 as though fully set forth  
12 herein and incorporates the same by reference.

13 52. SFR properly acquired title to the Property at the Association foreclosure sale on March  
14 1, 2013.

15 53. Counter-Defendant Chase may claim that it maintained an interest in the Property  
16 through the First Deed of Trust which was extinguished by the Association foreclosure sale.

17 54. Cross-Defendants, the Hawkinses, may claim an ownership interest in the Property.

18 55. A foreclosure sale based on the First Deed of Trust is invalid as Counter-Defendant  
19 Chase lost its interest in the Property, if any, at the Association foreclosure sale.

20 56. Any sale or transfer of title to the Property by Counter-Defendant and Cross-Defendants  
21 would be invalid because their interest in the Property, if any, was extinguished by the  
22 Association foreclosure sale.

23 57. Any attempt to take or maintain possession of the Property by Counter-Defendant and  
24 Cross-Defendants would be invalid because their interest in the Property, if any, was  
25 extinguished by the Association foreclosure sale.

26 58. Any attempt to sell, transfer, encumber or otherwise convey the Property by the Counter-  
27 Defendant and Cross-Defendants would be invalid because their interest in the Property, if any,  
28 was extinguished by the Association foreclosure sale.

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

60. SFR is entitled to a preliminary injunction and permanent injunction prohibiting Counter-Defendant and Cross-Defendants from beginning or continuing any eviction proceedings that would affect SFR's possession of the Property.

61. SFR is entitled to a preliminary injunction and permanent injunction prohibiting Counter-Defendant and Cross-Defendants from any sale or transfer that would affect the title to the Property.

### **V. PRAYER FOR RELIEF**

SFR requests judgment against Counter-Defendant and Cross-Defendants as follows:

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

2. For a preliminary and permanent injunction that Counter-Defendant and Cross-Defendants are prohibited from initiating or continuing foreclosure proceedings, and from selling or transferring 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 March 20th, 2014.

**HOWARD KIM & ASSOCIATES**

/s/Diana S. Cline

HOWARD C. KIM, ESQ.

Nevada Bar No. 10386

DIANA S. CLINE, ESQ.

Nevada Bar No. 10580

JACQUELINE A. GILBERT, ESQ.

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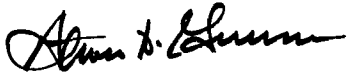
Phone: (702) 485-3300

Fax: (702) 485-3301

Attorneys for SFR Investments Pool 1, LLC

# **EXHIBIT 3**

# **EXHIBIT 3**



CLERK OF THE COURT

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*Attorneys for Defendant/Counter-claimant*  
*SFR Investments Pool 1, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a  
Nevada limited liability company; DOES 1  
through 10; and ROE BUSINESS ENTITIES  
1 through 10, inclusive,

Defendants.

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

Counter-Claimant,

vs.

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association;  
ROBERT M. HAWKINS, an individual;  
CHRISTINE V. HAWKINS, an individual;  
DOES 1 10 and ROE BUSINESS ENTITIES  
1 through 10 inclusive,

Counter-Defendant/Cross-Defendants.

Case No. A-13-692304-C

Dept. No. XVIII

**STIPULATION AND ORDER  
DISMISSING DEFENDANTS ROBERT M.  
HAWKINS AND CHRISTINE V.  
HAWKINS WITHOUT PREJUDICE**

Defendants ROBERT M. HAWKINS and CHRISTINE V. HAWKINS ("Hawkins")

**HOWARD KIM & ASSOCIATES**

1055 WHITNEY RANCH DRIVE, SUITE 110  
HENDERSON, NEVADA 89014

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

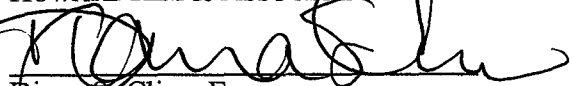
1 stipulate and agree that any ownership interest they may have had in the real property  
2 commonly known as **3263 Morning Springs Drive, Henderson, NV 89074; Parcel No. 177-**  
3 **24-514-043** (the "Property") was extinguished on March 1, 2013, by the foreclosure sale  
4 conducted by Nevada Association Services, Inc. ("NAS"), agent for Pebble Canyon  
5 Homeowners Association. Further, Defendants stipulate and agree that they surrendered any  
6 interest in the Property in their Chapter 7 Bankruptcy, Case No. 12-13397-bam, filed on  
7 March 23, 2012 in the U.S. Bankruptcy Court, District of Nevada, and from which they  
8 received a discharge on June 26, 2012, and which case was closed on June 29, 2012.

9 Defendants Hawkins further stipulate and agree that they will not contest the validity of  
10 the foreclosure deed recorded in the Official Records of the Clark County Recorder as  
11 Instrument Number 201303060001648, or any subsequent transactions, including SFR  
12 Investments Pool 1, LLC's ("SFR") ownership interest in the Property.

13 Based on these representations, SFR and Defendants Hawkins stipulate and agree that  
14 Hawkins shall be dismissed from this action, without prejudice, each party to bear its own fees  
15 and costs.

16 DATED this 8 day of April, 2014.

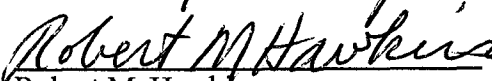
17 HOWARD KIM & ASSOCIATES


18   
19 Diana S. Cline, Esq.  
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21 1055 Whitney Ranch Drive, Suite 110  
22 Henderson, Nevada 89014  
23 Phone: (702) 485-3300  
24 Fax: (702) 485-3301

25 *Attorneys for SFR Investments Pool 1, LLC*

26  
27  
28  
///

DATED this 18 day of April, 2014.

  
Robert M. Hawkins  
4138 Ridgewood Avenue  
Las Vegas, Nevada 89120  
Phone: (702) 524-5821  
Email: bobbhawkins265@embarqmail.com

  
Christine V. Hawkins  
4138 Ridgewood Avenue  
Las Vegas, Nevada 89120

**HOWARD KIM & ASSOCIATES**

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HENDERSON, NEVADA 89014  
(702) 485-3300 FAX (702) 485-3301

1 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

2 TIFFANY & BOSCO P.A.

3 \_\_\_\_\_  
4 Gregory L. Wilde, Esq.  
5 Nevada Bar No. 4417  
6 212 South Jones Blvd.  
7 Las Vegas, Nevada 89107  
8 Phone: (702) 258-8200  
9 Fax: (702) 258-8787  
10 Attorneys for Plaintiff

**ORDER**

11 IT IS SO ORDERED, that Robert Hawkins and Christine Hawkins are  
12 dismissed from case number A692304

13 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

14 *Dated: 4-21-14*

15 \_\_\_\_\_  
16 DISTRICT COURT JUDGE *JB*

17 Respectfully Submitted by:

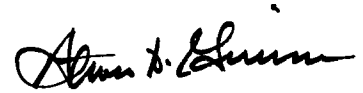
18 **HOWARD KIM & ASSOCIATES**

19 \_\_\_\_\_  
20 HOWARD C. KIM, ESQ.  
21 Nevada Bar No. 10386  
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23 Nevada Bar No. 10580  
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Fax: (702) 485-3301  
Attorneys for SFR Investments Pool 1, LLC

# **EXHIBIT 4**

# **EXHIBIT 4**





CLERK OF THE COURT

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Telephone: (702) 485-3300

Facsimile: (702) 485-3301

*Attorneys for Defendant/Counter-claimant*

*SFR Investments Pool 1, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a  
Nevada limited liability company; DOES 1  
through 10; and ROE BUSINESS ENTITIES  
1 through 10, inclusive,

Defendants.

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

Counter-Claimant,

vs.

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association;  
ROBERT M. HAWKINS, an individual;  
CHRISTINE V. HAWKINS, an individual;  
DOES 1 10 and ROE BUSINESS ENTITIES  
1 through 10 inclusive,

Counter-Defendant/Cross-Defendants.

Case No. A-13-692304-C

Dept. No. XVIII

**NOTICE OF ENTRY OF STIPULATION  
AND ORDER**

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

1 PLEASE TAKE NOTICE that a **STIPULATION AND ORDER DISMISSING**  
2 **DEFENDANTS ROBERT M. HAWKINS AND CHRISTINE V. HAWKINS WITHOUT**  
3 **PREJUDICE** was entered by this Court on April 23, 2014. A copy of said order is attached  
4 hereto.

5 DATED April 24, 2014.

**HOWARD KIM & ASSOCIATES**

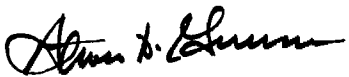
6 /s/ Diana S. Cline  
7 Howard C. Kim, Esq.  
8 Nevada Bar No. 10386  
9 Diana S. Cline, Esq.  
10 Nevada Bar No. 10580  
11 1055 Whitney Ranch Dr., Suite 110  
12 Henderson, Nevada 89014  
13 Phone: (702) 485-3300  
14 Fax: (702) 485-330  
15 *Attorneys for Plaintiff*

16 **CERTIFICATE OF SERVICE**

17 I HEREBY CERTIFY that on this 24<sup>th</sup> day of April, 2014, pursuant to NRCP 5(b), I  
18 served the following parties listed below by depositing via U.S. mail first class a true and  
19 correct copy of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER**,  
20 postage prepaid and addressed to:

21 Gregory Wilde, Esq.  
22 Tiffany & Bosco P.A.  
23 212 S. Jones Blvd.  
24 Las Vegas, NV 89107  
25 *Attorney for JPMorgan Chase Bank*  
26 *National Association*

27 /s/ Tommie Dooley  
28 An employee of Howard Kim & Associates



CLERK OF THE COURT

**SAO**

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

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a  
Nevada limited liability company; DOES 1  
through 10; and ROE BUSINESS ENTITIES  
1 through 10, inclusive,

Defendants.

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

Counter-Claimant,

vs.

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, a national association;  
ROBERT M. HAWKINS, an individual;  
CHRISTINE V. HAWKINS, an individual;  
DOES 1 10 and ROE BUSINESS ENTITIES  
1 through 10 inclusive,

Counter-Defendant/Cross-Defendants.

Case No. A-13-692304-C

Dept. No. XVIII

**STIPULATION AND ORDER  
DISMISSING DEFENDANTS ROBERT M.  
HAWKINS AND CHRISTINE V.  
HAWKINS WITHOUT PREJUDICE**

Defendants ROBERT M. HAWKINS and CHRISTINE V. HAWKINS ("Hawkins")

**HOWARD KIM & ASSOCIATES**

1055 WHITNEY RANCH DRIVE, SUITE 110  
HENDERSON, NEVADA 89014

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

1 stipulate and agree that any ownership interest they may have had in the real property  
2 commonly known as **3263 Morning Springs Drive, Henderson, NV 89074; Parcel No. 177-**  
3 **24-514-043** (the "Property") was extinguished on March 1, 2013, by the foreclosure sale  
4 conducted by Nevada Association Services, Inc. ("NAS"), agent for Pebble Canyon  
5 Homeowners Association. Further, Defendants stipulate and agree that they surrendered any  
6 interest in the Property in their Chapter 7 Bankruptcy, Case No. 12-13397-bam, filed on  
7 March 23, 2012 in the U.S. Bankruptcy Court, District of Nevada, and from which they  
8 received a discharge on June 26, 2012, and which case was closed on June 29, 2012.

9 Defendants Hawkins further stipulate and agree that they will not contest the validity of  
10 the foreclosure deed recorded in the Official Records of the Clark County Recorder as  
11 Instrument Number 201303060001648, or any subsequent transactions, including SFR  
12 Investments Pool 1, LLC's ("SFR") ownership interest in the Property.

13 Based on these representations, SFR and Defendants Hawkins stipulate and agree that  
14 Hawkins shall be dismissed from this action, without prejudice, each party to bear its own fees  
15 and costs.

16 DATED this 8 day of April, 2014.

17 HOWARD KIM & ASSOCIATES

18   
Diana S. Cline, Esq.

19 Nevada Bar No. 10580

20 1055 Whitney Ranch Drive, Suite 110  
Henderson, Nevada 89014

21 Phone: (702) 485-3300

22 Fax: (702) 485-3301

23 *Attorneys for SFR Investments Pool 1, LLC*

24 *///*

DATED this 18 day of April, 2014.



Robert M. Hawkins

4138 Ridgewood Avenue

Las Vegas, Nevada 89120

Phone: (702) 524-5821

Email: bobhawkins265@embarqmail.com



Christine V. Hawkins

4138 Ridgewood Avenue

Las Vegas, Nevada 89120

**HOWARD KIM & ASSOCIATES**

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

1 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

2 TIFFANY & BOSCO P.A.

3 \_\_\_\_\_  
4 Gregory L. Wilde, Esq.  
5 Nevada Bar No. 4417  
6 212 South Jones Blvd.  
7 Las Vegas, Nevada 89107  
8 Phone: (702) 258-8200  
9 Fax: (702) 258-8787  
10 Attorneys for Plaintiff

**ORDER**

11 IT IS SO ORDERED, that Robert Hawkins and Christine Hawkins are  
12 dismissed from case number A692304

13 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

14 *Dated: 4-21-14*

15 \_\_\_\_\_  
16 DISTRICT COURT JUDGE *JB*

17 Respectfully Submitted by:

18 **HOWARD KIM & ASSOCIATES**

19 \_\_\_\_\_  
20 HOWARD C. KIM, ESQ.  
21 Nevada Bar No. 10386  
22 DIANA S. CLINE, ESQ.  
23 Nevada Bar No. 10580  
24 JACQUELINE A. GILBERT, ESQ.  
25 Nevada Bar No. 10593  
26 1055 Whitney Ranch Drive, Suite 110  
27 Henderson, Nevada 89014  
28 Phone: (702) 485-3300  
Fax: (702) 485-3301  
Attorneys for SFR Investments Pool 1, LLC

# **EXHIBIT 5**

# **EXHIBIT 5**

*Steven D. Grierson*

1 FFCL  
2 Abran E. Vigil  
3 Nevada Bar No. 7548  
4 Holly Ann Priest  
5 Nevada Bar No. 13226  
6 BALLARD SPAHR LLP  
7 1980 Festival Plaza Drive, Suite 900  
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9 Telephone: (702) 471-7000  
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11 E-Mail: vigila@ballardspahr.com  
12 E-Mail: priesth@ballardspahr.com

13 *Attorneys for Plaintiff and Counter-Defendant*  
14 *JPMorgan Chase Bank, N.A.*

15 DISTRICT COURT  
16 CLARK COUNTY, NEVADA

17 JPMORGAN CHASE BANK, NATIONAL  
18 ASSOCIATION, a national association,

19 Plaintiff,

20 vs.

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

23 Defendants.

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

26 Counter-Claimant,

27 vs.

28 JPMORGAN CHASE BANK NATIONAL  
ASSOCIATION, a national association;  
ROBERT M. HAWKINS, an individual;  
CHRISTINE V. HAWKINS, an individual;  
DOES 1-10 and ROE BUSINESS  
ENTITIES 1 through 10, inclusive,

Counter-Defendant/Cross-  
Defendants.

CASE NO. A-13-692304-C

DEPT NO. XXIV

<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

**FINDINGS OF FACT AND CONCLUSIONS OF LAW AND JUDGMENT IN  
FAVOR OF SFR INVESTMENTS POOL 1, LLC**

1 This matter came before the Court for hearing on June 5, 2018 on SFR  
2 Investments Pool 1, LLC's ("SFR") Motion for Summary Judgment and Counter-  
3 Motion to Strike, and JPMorgan Chase Bank, N.A.'s ("Chase") Motion for Summary  
4 Judgment. Karen L. Hanks, Esq. and Caryn Schiffman, Esq. appeared on behalf of  
5 SFR. Sylvia Semper, Esq. appeared on behalf of Chase.

6 Having reviewed and considered the full briefing and arguments of counsel, for  
7 the reasons stated on the record and in the pleadings, and good cause appearing, this  
8 Court makes the following findings of fact and conclusions of law.<sup>1</sup>

9 FINDINGS OF FACT

10 1. On September 20, 2017, a Notice of Entry of Stipulation Requesting  
11 Reconsideration and Certification was filed with the Court.

12 2. As part of that Stipulation, the parties agreed that in light of *Nationstar*  
13 *Mortg., LLC v. SFR Invs. Pool 1, LLC*, \_\_\_ Nev. \_\_\_, 396 P.3d 754 (Nev. 2017), this  
14 Court's earlier grant of summary judgment in favor of SFR, on the issue of whether  
15 (1) 12 U.S.C. § 4617(j)(3) preempts NRS Chapter 116; (2) whether Freddie Mac had a  
16 valid and enforceable property interest at the time of the Association foreclosure sale;  
17 and (3) whether Chase had a servicing agreement with Freddie Mac at the time of  
18 the Association foreclosure sale would be vacated.

19 3. The parties further stipulated that all other aspects of the Court's  
20 summary judgment ruling in favor of SFR would remain in place, with Chase  
21 retaining the right to challenge those other aspects in any future appeal.

22 4. As a result of this stipulation, on April 13, 2018, SFR and Chase filed  
23 summary judgment motions on the HERA issue.

24 5. On March 9, 2016, Chase filed its First Amended Complaint. This was  
25 the first time Chase alleged Freddie Mac had a property interest in the subject

26 <sup>1</sup> While Chase submitted this order to memorialize the Court's ruling, Chase  
27 does not concede or waive any argument it raised in its filed briefs or during oral  
28 argument.



1 property commonly known as 3263 Morning Springs Drive, Henderson, Nevada  
2 89074.

3 6. The Association foreclosure sale took place on March 1, 2013.

4 7. In support of its Motion for Summary Judgment Chase attached a  
5 declaration from Dean Meyer, with attached exhibits that were not disclosed during  
6 the course of discovery. Chase never disclosed Dean Meyer as a witness during the  
7 course of discovery. The documents attached as Ex. 10, 11, 24 and 27 to Chase's  
8 Motion were also never disclosed during the course of discovery.

9 9. As a result, SFR filed a counter-motion to strike these documents and  
10 the affidavit of Dean Meyer.

11 10. However, the Court adopts the arguments and reasoning in Chase's  
12 opposition to SFR's Motion for Summary Judgment at pages 3 through 9 where  
13 Chase asserted Freddie Mac's ownership of the note at the time of the Association  
14 foreclosure sale, which renders 12 U.S.C. § 4617(j)(3) applicable at the time of the  
15 Association foreclosure sale.

## 16 CONCLUSIONS OF LAW

### 17 Standard

18 A. Summary judgment is appropriate "when the pleadings and other  
19 evidence on file demonstrate that no 'genuine issue as to any material fact [remains]  
20 and that the moving party is entitled to a judgment as a matter of law.'" *Wood v.*  
21 *Safeway*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Additionally, "[t]he  
22 purpose of summary judgment 'is to avoid a needless trial when an appropriate  
23 showing is made in advance that there is no genuine issue of fact to be tried, and the  
24 movant is entitled to judgment as a matter of law.'" *McDonald v. D.P. Alexander &*  
25 *Las Vegas Boulevard, LLC*, 121 Nev. 812, 815, 123 P.3d 748, 750 (2005) *quoting*  
26 *Coray v. Hom*, 80 Nev. 39, 40-41, 389 P.2d 76, 77 (1964). Moreover, the non-moving  
27 party "must, by affidavit or otherwise, set forth specific facts demonstrating the  
28 existence of a genuine issue for trial or have summary judgment entered against

1 [it].” *Wood*, 121 Nev. at 732, 121 P.3d at 1031. The non-moving party “is not  
2 entitled to build a case on the gossamer threads of whimsy, speculation, and  
3 conjecture.” *Id.* Rather, the non-moving party must demonstrate specific facts as  
4 opposed to general allegations and conclusions. *LaMantia v. Redisi*, 118 Nev. 27, 29,  
5 38 P.3d 877, 879 (2002); *Wayment v. Holmes*, 112 Nev. 232, 237, 912 P.2d 816, 819  
6 (1996). Though inferences are to be drawn in favor of the non-moving party, an  
7 opponent to summary judgment, must show that it can produce evidence at trial to  
8 support its claim or defense. *Van Cleave v. Kietz-Mill Minit Mart*, 97 Nev. 414, 417,  
9 633 P.2d 1220, 1222 (1981).

#### 10 Statute of Limitations

11 B. Under 12 U.S.C. § 4617(b)(12), any tort actions brought by the FHFA  
12 must be brought within three years from the date the claim arose. Here, the  
13 Association sale took place on March 1, 2013. As such, any tort claim brought by  
14 FHFA under HERA expired on March 1, 2016. Chase did not raise the HERA claim  
15 until March 9, 2016. Such claim is time-barred.

16 C. Chase argues that 12 U.S.C. § 4617(b)(12) only applies if FHFA is a  
17 party. Chase, however, claims that because Chase, rather than FHFA is asserting  
18 HERA in this case, then the three-year statute of limitations does not apply. The  
19 Court rejects this argument.

20 D. The problem with this argument is it would mean that a servicer who  
21 claims a derivative right to assert the federal foreclosure bar is actually in a superior  
22 position immune from the statute of limitations, and that would actually encourage  
23 the FHFA to not be a party and litigate its interests because to do so they would be  
24 foreclosed by the statute of limitations.

25 E. Alternatively, Chase argues that its amended complaint should relate  
26 back to its original complaint. The Court rejects this argument. As SFR correctly  
27 points out, nothing in the original complaint alleged the federal foreclosure bar or  
28 facts and circumstances regarding a claimed federal interest that would put SFR on

1 notice that HERA was at issue in this case. *See Wilson v. Fairchild Republic Co.*, 143  
2 F.3d 733, 738 (2d Cir. 1998) ("The pertinent inquiry, in this respect, is whether the  
3 original complaint gave the defendant fair notice of the newly alleged claims." (*citing*  
4 *Baldwin County Welcome Center v. Brown*, 466 U.S. 147, 149 n.3, 104 S. Ct 1723  
5 (1984)). overruled on other grounds by *Slayton v. Am. Express Co.*, 460 F.3d 215,  
6 227-28 (2d Cir.2006) (adopting *de novo* standard of review for Rule 15(c)).

7 **Motion to Strike**

8 G. Chase attached a declaration from Dean Meyer, with attached exhibits  
9 that were not disclosed during the course of discovery. The documents attached as  
10 Ex. 10, 11, 24 and 27 to Chase's Motion were also never disclosed during the course of  
11 discovery. Chase never disclosed Dean Meyer as a witness during the course of  
12 discovery.

13 H. The Court grants SFR's Motion to Strike.

14 **ORDER**

15 **IT IS ORDERED, ADJUDGED, AND DECREED** that SFR's Motion for  
16 Summary Judgment is **GRANTED**.

17 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that JPMorgan  
18 Chase Bank, N.A.'s Motion for Summary Judgment is **DENIED**.

19 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Deed of  
20 Trust recorded in the Official Records of the Clark County Recorder as Instrument  
21 No. 20060612-0003526 was extinguished by the homeowners association foreclosure  
22 sale held on behalf of the Association.

23 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Chase, its  
24 predecessors in interest and its successors and assigns, have no further right, title, or  
25 interest in real property located at 3263 Morning Springs Drive, Henderson, Nevada  
26 89074, and are hereby permanently enjoined from taking any further action to  
27 enforce the now extinguished DOT, including but not limited to, clouding title,  
28 initiating, continuing to conduct, or taking any other action to foreclosure on, and

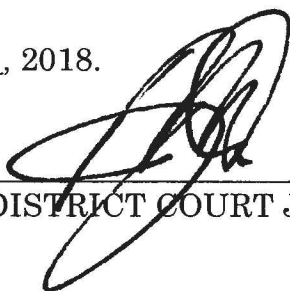
1 from selling, or transferring the Property.

2 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that title to real  
3 property located at 3263 Morning Springs Drive, Henderson, Nevada 89074, APN  
4 177-24-54-043 is hereby quieted in favor of SFR.

5 IT IS FURTHER ORDERED, ADJUDED, AND DECREED that JUDGMENT  
6 be entered in favor of SFR pursuant to this ORDER.

7 IT IS SO ORDERED.

8 DATED this 14 day of Aug., 2018.

  
DISTRICT COURT JUDGE

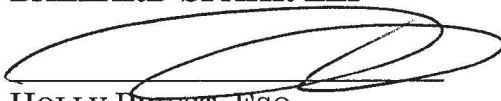
12 Not Approved By:

13 KIM GILBERT EBRON

14  
15 KAREN L. HANKS, ESQ.  
16 Nevada Bar No. 9578  
17 7625 Dean Martin Drive, Suite 110  
18 Las Vegas, Nevada 89139  
19 *Attorney for SFR Investments Pool 1,*  
20 *LLC*

Approved as to Form Only By:

BALLARD SPAHR LLP

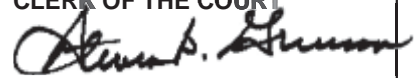
  
HOLLY PRIEST, ESQ.  
Nevada Bar No. 13226  
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Las Vegas, Nevada 89135  
*Attorneys for JPMorgan Chase Bank,*  
N.A.

BALLARD SPAHR LLP  
1980 FESTIVAL PLAZA DRIVE, SUITE 900  
LAS VEGAS, NEVADA 89135  
(702) 471-7000 FAX (702) 471-7070

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT 6**

# **EXHIBIT 6**



1 **NEFF**

2 Abran E. Vigil  
3 Nevada Bar No. 7548  
4 Holly Ann Priest  
5 Nevada Bar No. 13226  
6 BALLARD SPAHR LLP  
7 1980 Festival Plaza Drive, Suite 900  
8 Las Vegas, Nevada 89135  
9 Telephone: (702) 471-7000  
10 Facsimile: (702) 471-7070  
11 E-Mail: vigila@ballardspahr.com  
12 E-Mail: priesth@ballardspahr.com

13 *Attorneys for Plaintiff and Counter-Defendant*  
14 *JPMorgan Chase Bank, N.A.*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 JPMORGAN CHASE BANK, NATIONAL )  
18 ASSOCIATION, a national association, )

CASE NO. A-13-692304-C

19 Plaintiff,

DEPT NO. XXIV

20 vs.

21 SFR INVESTMENTS POOL 1, LLC, a )  
22 Nevada limited liability company )

23 Defendants. )

24 SFR INVESTMENTS POOL 1, LLC a )  
25 Nevada limited liability company, )

26 Counter-Claimant, )

27 vs. )

28 JPMORGAN CHASE BANK NATIONAL )  
ASSOCIATION, a national association; )  
ROBERT M. HAWKINS, an individual; )  
CHRISTINE V. HAWKINS, an individual; )  
DOES 1-10 and ROE BUSINESS )  
ENTITIES 1 through 10, inclusive, )

Counter-Defendant/Cross- )  
Defendants. )

**NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW AND**  
**JUDGMENT IN FAVOR OF SFR INVESTMENTS POOL 1, LLC**

1 Please take notice that on the 15<sup>th</sup> day of August, 2018, the Clerk of the Court  
2 entered the Findings of Fact and Conclusions of Law and Judgment in Favor of SFR  
3 Investments Pool 1, LLC in the above mentioned case, a copy of which is attached  
4 hereto.

5 DATED: August 16, 2018.

6 BALLARD SPAHR LLP

7  
8 By: /s/ Holly Ann Priest  
Abran E. Vigil, Esq.  
9 Nevada Bar No. 7548  
Holly Ann Priest  
10 Nevada Bar No. 13226  
1980 Festival Plaza, Drive, Suite 900  
11 Las Vegas, Nevada 89135

12 *Attorneys for JPMorgan Chase Bank N.A.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 16<sup>th</sup> day of August 2018, and pursuant to N.R.C.P. 5(b), a true and correct copy of the foregoing **NOTICE OF ENTRY FINDINGS OF FACT AND CONCLUSIONS OF LAW AND JUDGMENT IN FAVOR OF SFR INVESTMENTS POOL 1, LLC** was served via the Court's Odyssey E-File and Serve electronic system on the following parties:

Diana Ebron  
Jacqueline A. Gilbert  
Karen L. Hanks  
KIM GILBERT EBRON  
7625 Dean Martin Drive, Suite 110  
Las Vegas, Nevada 89139-5974

*Attorneys for Plaintiff*

/s/ C. Wells  
An employee of BALLARD SPAHR LLP



*Steven D. Grierson*

1 FFCL  
2 Abran E. Vigil  
3 Nevada Bar No. 7548  
4 Holly Ann Priest  
5 Nevada Bar No. 13226  
6 BALLARD SPAHR LLP  
7 1980 Festival Plaza Drive, Suite 900  
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11 E-Mail: vigila@ballardspahr.com  
12 E-Mail: priesth@ballardspahr.com

13 *Attorneys for Plaintiff and Counter-Defendant*  
14 *JPMorgan Chase Bank, N.A.*

15 DISTRICT COURT  
16 CLARK COUNTY, NEVADA

17 JPMORGAN CHASE BANK, NATIONAL  
18 ASSOCIATION, a national association,

19 Plaintiff,

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21 SFR INVESTMENTS POOL 1, LLC, a  
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Defendants.

CASE NO. A-13-692304-C

DEPT NO. XXIV

MS  
☐ Voluntary Dismissal  
☐ Involuntary Dismissal  
☐ Stipulated Dismissal  
☐ Motion to Dismiss by Deft(s)  
☒ Summary Judgment  
☐ Stipulated Judgment  
☐ Default Judgment  
☐ Judgment of Arbitration

**FINDINGS OF FACT AND CONCLUSIONS OF LAW AND JUDGMENT IN  
FAVOR OF SFR INVESTMENTS POOL 1, LLC**

BALLARD SPAHR LLP  
1980 FESTIVAL PLAZA DRIVE, SUITE 900  
LAS VEGAS, NEVADA 89135  
(702) 471-7000 FAX (702) 471-7070

1 This matter came before the Court for hearing on June 5, 2018 on SFR  
2 Investments Pool 1, LLC's ("SFR") Motion for Summary Judgment and Counter-  
3 Motion to Strike, and JPMorgan Chase Bank, N.A.'s ("Chase") Motion for Summary  
4 Judgment. Karen L. Hanks, Esq. and Caryn Schiffman, Esq. appeared on behalf of  
5 SFR. Sylvia Semper, Esq. appeared on behalf of Chase.

6 Having reviewed and considered the full briefing and arguments of counsel, for  
7 the reasons stated on the record and in the pleadings, and good cause appearing, this  
8 Court makes the following findings of fact and conclusions of law.<sup>1</sup>

9 FINDINGS OF FACT

10 1. On September 20, 2017, a Notice of Entry of Stipulation Requesting  
11 Reconsideration and Certification was filed with the Court.

12 2. As part of that Stipulation, the parties agreed that in light of *Nationstar*  
13 *Mortg., LLC v. SFR Invs. Pool 1, LLC*, \_\_\_ Nev. \_\_\_, 396 P.3d 754 (Nev. 2017), this  
14 Court's earlier grant of summary judgment in favor of SFR, on the issue of whether  
15 (1) 12 U.S.C. § 4617(j)(3) preempts NRS Chapter 116; (2) whether Freddie Mac had a  
16 valid and enforceable property interest at the time of the Association foreclosure sale;  
17 and (3) whether Chase had a servicing agreement with Freddie Mac at the time of  
18 the Association foreclosure sale would be vacated.

19 3. The parties further stipulated that all other aspects of the Court's  
20 summary judgment ruling in favor of SFR would remain in place, with Chase  
21 retaining the right to challenge those other aspects in any future appeal.

22 4. As a result of this stipulation, on April 13, 2018, SFR and Chase filed  
23 summary judgment motions on the HERA issue.

24 5. On March 9, 2016, Chase filed its First Amended Complaint. This was  
25 the first time Chase alleged Freddie Mac had a property interest in the subject

26 <sup>1</sup> While Chase submitted this order to memorialize the Court's ruling, Chase  
27 does not concede or waive any argument it raised in its filed briefs or during oral  
28 argument.

1 property commonly known as 3263 Morning Springs Drive, Henderson, Nevada  
2 89074.

3 6. The Association foreclosure sale took place on March 1, 2013.

4 7. In support of its Motion for Summary Judgment Chase attached a  
5 declaration from Dean Meyer, with attached exhibits that were not disclosed during  
6 the course of discovery. Chase never disclosed Dean Meyer as a witness during the  
7 course of discovery. The documents attached as Ex. 10, 11, 24 and 27 to Chase's  
8 Motion were also never disclosed during the course of discovery.

9 9. As a result, SFR filed a counter-motion to strike these documents and  
10 the affidavit of Dean Meyer.

11 10. However, the Court adopts the arguments and reasoning in Chase's  
12 opposition to SFR's Motion for Summary Judgment at pages 3 through 9 where  
13 Chase asserted Freddie Mac's ownership of the note at the time of the Association  
14 foreclosure sale, which renders 12 U.S.C. § 4617(j)(3) applicable at the time of the  
15 Association foreclosure sale.

## 16 CONCLUSIONS OF LAW

### 17 Standard

18 A. Summary judgment is appropriate "when the pleadings and other  
19 evidence on file demonstrate that no 'genuine issue as to any material fact [remains]  
20 and that the moving party is entitled to a judgment as a matter of law.'" *Wood v.*  
21 *Safeway*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Additionally, "[t]he  
22 purpose of summary judgment 'is to avoid a needless trial when an appropriate  
23 showing is made in advance that there is no genuine issue of fact to be tried, and the  
24 movant is entitled to judgment as a matter of law.'" *McDonald v. D.P. Alexander &*  
25 *Las Vegas Boulevard, LLC*, 121 Nev. 812, 815, 123 P.3d 748, 750 (2005) *quoting*  
26 *Coray v. Hom*, 80 Nev. 39, 40-41, 389 P.2d 76, 77 (1964). Moreover, the non-moving  
27 party "must, by affidavit or otherwise, set forth specific facts demonstrating the  
28 existence of a genuine issue for trial or have summary judgment entered against

1 [it].” *Wood*, 121 Nev. at 732, 121 P.3d at 1031. The non-moving party “is not  
2 entitled to build a case on the gossamer threads of whimsy, speculation, and  
3 conjecture.” *Id.* Rather, the non-moving party must demonstrate specific facts as  
4 opposed to general allegations and conclusions. *LaMantia v. Redisi*, 118 Nev. 27, 29,  
5 38 P.3d 877, 879 (2002); *Wayment v. Holmes*, 112 Nev. 232, 237, 912 P.2d 816, 819  
6 (1996). Though inferences are to be drawn in favor of the non-moving party, an  
7 opponent to summary judgment, must show that it can produce evidence at trial to  
8 support its claim or defense. *Van Cleave v. Kietz-Mill Minit Mart*, 97 Nev. 414, 417,  
9 633 P.2d 1220, 1222 (1981).

#### 10 Statute of Limitations

11 B. Under 12 U.S.C. § 4617(b)(12), any tort actions brought by the FHFA  
12 must be brought within three years from the date the claim arose. Here, the  
13 Association sale took place on March 1, 2013. As such, any tort claim brought by  
14 FHFA under HERA expired on March 1, 2016. Chase did not raise the HERA claim  
15 until March 9, 2016. Such claim is time-barred.

16 C. Chase argues that 12 U.S.C. § 4617(b)(12) only applies if FHFA is a  
17 party. Chase, however, claims that because Chase, rather than FHFA is asserting  
18 HERA in this case, then the three-year statute of limitations does not apply. The  
19 Court rejects this argument.

20 D. The problem with this argument is it would mean that a servicer who  
21 claims a derivative right to assert the federal foreclosure bar is actually in a superior  
22 position immune from the statute of limitations, and that would actually encourage  
23 the FHFA to not be a party and litigate its interests because to do so they would be  
24 foreclosed by the statute of limitations.

25 E. Alternatively, Chase argues that its amended complaint should relate  
26 back to its original complaint. The Court rejects this argument. As SFR correctly  
27 points out, nothing in the original complaint alleged the federal foreclosure bar or  
28 facts and circumstances regarding a claimed federal interest that would put SFR on

1 notice that HERA was at issue in this case. *See Wilson v. Fairchild Republic Co.*, 143  
2 F.3d 733, 738 (2d Cir. 1998) ("The pertinent inquiry, in this respect, is whether the  
3 original complaint gave the defendant fair notice of the newly alleged claims." (*citing*  
4 *Baldwin County Welcome Center v. Brown*, 466 U.S. 147, 149 n.3, 104 S. Ct 1723  
5 (1984)). overruled on other grounds by *Slayton v. Am. Express Co.*, 460 F.3d 215,  
6 227-28 (2d Cir.2006) (adopting *de novo* standard of review for Rule 15(c)).

7 **Motion to Strike**

8 G. Chase attached a declaration from Dean Meyer, with attached exhibits  
9 that were not disclosed during the course of discovery. The documents attached as  
10 Ex. 10, 11, 24 and 27 to Chase's Motion were also never disclosed during the course of  
11 discovery. Chase never disclosed Dean Meyer as a witness during the course of  
12 discovery.

13 H. The Court grants SFR's Motion to Strike.

14 **ORDER**

15 **IT IS ORDERED, ADJUDGED, AND DECREED** that SFR's Motion for  
16 Summary Judgment is **GRANTED**.

17 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that JPMorgan  
18 Chase Bank, N.A.'s Motion for Summary Judgment is **DENIED**.

19 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Deed of  
20 Trust recorded in the Official Records of the Clark County Recorder as Instrument  
21 No. 20060612-0003526 was extinguished by the homeowners association foreclosure  
22 sale held on behalf of the Association.

23 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Chase, its  
24 predecessors in interest and its successors and assigns, have no further right, title, or  
25 interest in real property located at 3263 Morning Springs Drive, Henderson, Nevada  
26 89074, and are hereby permanently enjoined from taking any further action to  
27 enforce the now extinguished DOT, including but not limited to, clouding title,  
28 initiating, continuing to conduct, or taking any other action to foreclosure on, and

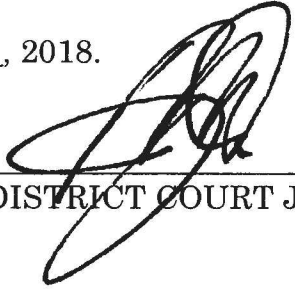
1 from selling, or transferring the Property.

2 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that title to real  
3 property located at 3263 Morning Springs Drive, Henderson, Nevada 89074, APN  
4 177-24-54-043 is hereby quieted in favor of SFR.

5 IT IS FURTHER ORDERED, ADJUDED, AND DECREED that JUDGMENT  
6 be entered in favor of SFR pursuant to this ORDER.

7 IT IS SO ORDERED.

8 DATED this 14 day of Aug., 2018.

  
DISTRICT COURT JUDGE

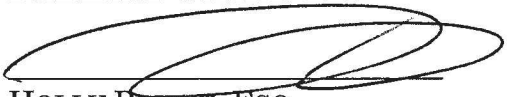
12 Not Approved By:

13 KIM GILBERT EBRON

14  
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