

Case No. 77010
IN THE SUPREME COURT OF NEVADA

JP MORGAN CHASE BANK,
National Association, a national
association

Appellant,

vs.

SFR INVESTMENTS POOL 1, LLC,
Respondent.

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Clerk of Supreme Court

APPEAL

From the Eighth Judicial District Court, Clark County
The Honorable JIM CROCKETT, District Judge
District Court Case No. A-13-692304-C

**SFR INVESTMENTS POOL 1, LLC'S
REPLY IN SUPPORT OF SUPPLEMENTAL BRIEFING**

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JPMorgan Chase Bank (“Chase”) offers no reason for this Court not to have the benefit of additional briefing as to the effect of *M&T Bank* ¹on this Court’s ultimate authority to determine what statute of limitations applies to Nevada quiet title claims, and to decide whether, under Nevada law they sound in contract or not.² The fact that the 9th Circuit denied petitions for rehearing and en banc reconsideration and motion to stay the mandate says nothing about whether M&T and the corollary issues raised in the other two cases effect this Court’s authority.

SFR is not seeking another bite of the apple. SFR is seeking to provide its analysis as to why this Court should not adopt or consider itself bound by the 9th Circuit ruling.

Chase argues that Freddie Mac has made a substantial investment in the loan secured by the deed of trust, yet it has never provided evidence of actual consideration paid. Neither has Chase provided any reason why SFR, the lawful titleholder of the Property, should not be able to use and have used its Property in any lawful manner. To complain that this has taken too long to allow for additional

¹ *M&T Bank v. SFR Investments Pool I, LLC*, 963 F.3d 854 (9th Cir. 2020)

² The Petitions for Rehearing and En Banc Reconsideration in *M&T Bank* as well *Freddie Mac v SFR Invs. Pool I, LLC*, 810 F. Appx 589, 2020 WL 3469109 (9th Cir. June 25, 2020) (unpublished) (applying *M&T Bank*); *Bourne Valley Ct. Trust v. Wells Fargo Bank, N.A.*, 810 F. Appx. 492, 2020 WL 3467975 (9th Cir. June 9, 2020) (unpublished) (applying *M&T Bank*), were denied, as were motions to stay pending a petition for writ of certiorari. SFR intends to file the petitions in *M&T Bank* and *Freddie Mac*, and upon information and belief, *Bourne Valley* will also be filing a petition.

briefing is risable. The borrower defaulted July 1, 2009. The Association foreclosure sale was held March 1, 2013. When Chase filed its complaint in November 2013, it never alleged Freddie Mac “owned” the loan and Chase was just the servicer. In its MSJ, filed March 31, 2014, Chase argued only that NRS 116.3116 did not allow an association lien foreclosure to affect a deed of trust. Chase stipulated to stay the case pending the *SFR* decision. It was only in Chase’s August 11, 2015, answer to SFR’s amended counterclaim that Freddie Mac was raised for the first time, and then only as an affirmative defense. It was not until March 9, 2016 that Chase amended its complaint to make a claim under 12 U.S.C. § 4617(j)(3). Chase waited almost 5 years before alleging the deed of trust survived the Association foreclosure sale because of HERA. If Freddie Mac had been in such a hurry to get the money from foreclosing on the Property back into the pool so that it could reinvest in the secondary mortgage market, then it should have foreclosed before the Association sale or have raised what it considers its bullet-proof claim much earlier in litigation.

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Neither Chase nor Freddie Mac will be prejudiced if this Court grants the motion so that the issues can be fully briefed. This Court has granted such requests in at least two other cases: *Ditech Financial, LLC v. SFR Investments Pool 1, LLC*, Case No. 78430; and *Residential Credit Solutions, Inc. v SFR Investments Pool 1, LLC*, Case No. 79306. SFR also agrees with the 10 page, or equivalent type-volume limits suggested by Chase.

DATED this 27th day of August 2020.

KIM GILBERT EBRON

/s/ Jacqueline A. Gilbert

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 27th day of August 2020. Electronic service of the foregoing **Reply in support of Supplement Briefing** shall be made in accordance with the Master Service List.

Dated this 27th day of August 2020.

/s/ Jacqueline A. Gilbert
An employee of KIM GILBERT EBRON