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8 SUPREME COURT
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10 STATE OF NEVADA

11 BANK OF AMERICA, N.A.,
12 SUCCESSOR BY MERGER TO BAC
HOME LOANS SERVICING, LP,
13 F/K/A COUNTRYWIDE HOME
LOANS SERVICING, LP,

No. 70501

14 Appellant,

15 vs.

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

19 Respondent.
20

21 **MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**
22 **IN SUPPORT OF PETITION FOR REHEARING**

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1. Saticoy Bay LLC is a Nevada limited-liability company.
2. The manager for Saticoy Bay LLC is Bay Harbor Trust.
3. The trustee for Bay Harbor Trust is Iyad Haddad a/k/a Eddie Haddad.

1 **MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

2
3 Pursuant to NRAP 29(c), Saticoy Bay, LLC (hereinafter “Saticoy Bay”)
4 respectfully requests leave to file an amicus curiae brief in support of respondent’s
5 petition for rehearing, filed by SFR Investments Pool 1, LLC on October 2, 2018.
6

7 The petition for rehearing concerns this Court’s opinion in Bank of America,
8 N.A. v. SFR Investments Pool 1, LLC, 134 Nev., Adv. Op. 72, 2018 WL 4403296
9 (Sept. 13, 2018).

10
11 Pursuant to NRAP 26(c), this motion is accompanied by the proposed *amicus*
12 brief.
13

14 **I. Saticoy Bay’s interest.**

15
16 Saticoy Bay is the owner of more than one hundred houses purchased at HOA
17 foreclosure sales conducted pursuant to the pre-2015 version of NRS Chapter 116.
18

19 Saticoy Bay is also a party to more than one hundred lawsuits involving the
20 issue of whether the HOA foreclosure sale extinguished a prior recorded deed of
21 trust. Many of these lawsuits involve an unrecorded claim by the lender that the
22 HOA wrongfully rejected a tender of the superpriority lien amount prior to the HOA
23 foreclosure sale.
24

25
26 Saticoy Bay is also a party to multiple appeals involving an unrecorded claim
27

1 of tender that are currently pending before this Court and the Court of Appeals for
2 the Ninth Circuit.
3

4 **II. Reasons why an *Amicus* Brief is desirable.**

5 Saticoy Bay's *amicus* brief is desirable because it provides arguments that
6 supplement, but do not simply parrot the arguments made in the petition for
7 rehearing.
8

9
10 In Bank of America, N.A. v. Ferrell Street Trust, 416 P.3d 208 (Table), 2018
11 WL 2021560 (Nev. Apr. 27, 2018)(unpublished disposition), this Court stated that
12 the district court did not rule on the bona fide purchaser issue and that "it does not
13 appear that either party raised the subrogation issue at the district court." Id. at *2.
14 This Court also stated that these issues "may warrant the district court's
15 consideration in light of whether Bank of America sufficiently tendered the
16 superpriority portion of the lien." Id.
17
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19

20 Although this Court refers to Section 6.4 of the Restatement (Third) of Prop.:
21 Mortgages (1997) at page 11 of the opinion in Bank of America, N.A. v. SFR
22 Investments Pool 1, LLC, this Court does not discuss the language in subsections (e)
23 and (f) in Section 6.4 of Restatement that treats a tender made by a subordinate
24 lienholder as an assignment. Saticoy Bay's *amicus* brief addresses these provisions
25
26
27

1 of the law of real property that supplement the provisions of NRS Chapter 116
2
3 pursuant to NRS 116.1108.

4 **CONCLUSION**

5 Saticoy Bay has a significant interest in the issues addressed in the instant
6
7 appeal, and an *amicus* brief is desirable. Saticoy Bay believes that the arguments
8
9 contained in the attached proposed brief will be of aid to the Court, and Saticoy Bay
10 respectfully requests leave to file its brief.

11 DATED this 8th day of October, 2018.

12
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DATED this 8th day of October, 2018.

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