

IN THE SUPREME COURT OF THE STATE OF NEVADA

SFR INVESTMENTS POOL 1, LLC, a
Nevada Limited Liability Company,

Appellant,

vs.

NATIONSTAR MORTGAGE LLC, a
Delaware Limited Liability Company,

Respondent(s).

Case No. 82078

District Court Case No.

A-13-684715-C

Electronically Filed
Dec 07 2020 02:25 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**DOCKETING STATEMENT
CIVIL APPEALS**

GENERAL INFORMATION

Appellants must complete this docketing statement, 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 Appeal 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 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: XVIII
2. County: Clark Judge: The Honorable Mary Kay Holthus

District Ct. Case No. A-13-684715-C

Attorney filing this docketing statement:

Attorney: Jacqueline A. Gilbert Telephone: 702-485-3300

Firm: Kim Gilbert Ebron

Address: 7625 Dean Martin Drive, Suite 110, Las Vegas, Nevada 89139

Client(s): SFR Investments Pool 1, LLC ("SFR")

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. N/A

3. Attorney(s) representing respondent(s):

Attorney: Ariel E. Stern Telephone: 702-634-5000

Firm: Akerman, LLP

Address: 1635 Village Center Circle, Suite 200, Las Vegas, NV 89134-6375

Client(s): Nationstar Mortgage LLC

4. Nature of disposition below (check all that apply):

- ☒ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☒ Summary judgment
- ☐ Default judgment
- ☐ Grant/Denial of NRCP 60(b) relief
- ☐ Grant/Denial of injunction
- ☐ Grant/Denial of declaratory relief

- ☐ Review of agency determination
- ☐ Dismissal:
 - ☐ Lack of jurisdiction
 - ☐ Failure to state a claim
 - ☐ Failure to Prosecute
 - ☐ Other (specify): _____
- ☐ Divorce Decree:
 - ☐ Original
 - ☐ Modification
- ☐ Other disposition (specify): _____

5. **Does this appeal raise issues concerning any of the following?** N/A

- ☐ 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 or pending before this court which are related to this appeal:

None

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 result below:

Former homeowner Ignacio Gutierrez filed a complaint for wrongful foreclosure and declaratory judgment after defendant Horizon Heights Homeowners Association (“Association”) foreclosed on the subject property pursuant to NRS 116.3116 et seq, and SFR purchased the property at a publically held-foreclosure auction. SFR filed an answer and brought counter-claims against Gutierrez and third-party complaint against third-party defendants Nationstar Mortgage, LLC and Countrywide Home Loans, LLC for quiet title/declaratory judgment, injunctive relief, and, in the alternative, unjust

enrichment. Mr. Gutierrez was eventually dismissed from the case.

The district court originally entered summary judgment in favor of SFR, which the Bank appealed. This Court authored a published opinion in that case, *Nationstar Mortgage, LLC v. SFR Investments Pool 1, LLC*, 133 Adv. Op. 34 (June 22, 2017) – case number 82078.

Following remittitur, both parties moved for summary judgment and the District Court the District Court granted Nationstar's Motion for Summary Judgment from which SFR appealed. This Court, on October 24, 2019, by unpublished order vacated and remanded because the district court failed to provide any reasoning or direct order regarding SFR's motion to strike the declaration of Dean Meyer.

Following remittitur on the second appeal, the parties provided supplemental briefing to the DC and stipulated to reopen discovery. SFR was forced to move to compel certain discovery, for example, deposition of Freddie Mac and documents from MERS, and when Nationstar filed its new motion for summary judgment, SFR opposed, renewed its countermotion to strike or in the alternative for Rule 56(d) relief. The DC ultimately granted Nationstar's motion for summary judgment, denied SFR's motion to compel and SFR's motion to strike. The Order was entered on October 6, 2020, and notice of entry of which was entered the same day.

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

Whether the district court erred in granting summary judgment in favor of Nationstar when genuine issues of material fact existed as to Freddie Mac's ownership of the loan. Specifically,

- 1) Whether the district court erred in concluding that Nationstar was Freddie Mac's contractually authorized servicer of the loan, despite the absence of a loan servicing agreement evidencing the servicing relationship between Nationstar and Freddie Mac, as required by the best evidence rule to prove the actual agency and the authority given to Nationstar as to this particular loan and property. NRS 52.235.
- 2) Whether the district court erred in concluding that Freddie Mae owned the loan despite its failure to produce the original wet-ink signature promissory

note to prove ownership at the time of the Association foreclosure sale as required by the best evidence rule to prove the actual contents of the documents, such as the endorsements and any custodial contracts NRS 52.235.

An additional issue has arisen since the district court's findings of fact and conclusions of law were entered that directly impacts this case. Specifically, decisions were entered in the Nevada Supreme Court in *JPMorgan Chase Bank, N.A. v. SFR Invs. Pool 1, LLC*, No. 77010, 136 Nev. Adv. Op. No. 68, 2020 WL 6373427 (Nev. Oct. 29, 2020) ("*Morning Springs*") and in the Ninth Circuit Court of Appeals in *M&T Bank and Federal Home Loan Mortgage Corporation v. SFR Investments Pool, LLC* 2020 WL 3458978, at *3 (9th Cir. June 25, 2020) ("*M&T Bank*"), that indicate a claim brought to have the deed of trust declared to have survived the foreclosure is akin to a contract claim because it is dependent upon the lien on the Property, which is an interest created by contract, despite recognizing that no contract existed between SFR and the plaintiff. In other words, in cases like the present case, Freddie Mac's mere ownership of the note resulting in its interest in the deed of trust converted what was an action based on § 4617(j)(3), a statute, into a contract claim. The two aforementioned cases are currently being challenged by petition for rehearing in this court and pending filing of a petition for writ of certiorari, respectively. However, if such claims are ultimately deemed "contract" claims, it follows that to adequately prove ownership, production not only of the promissory notes, but of the contract between the GSE and the purported agent, is required.

10. **Pending proceeding 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:

SFR Investments Pool 1, LLC v. JPMorgan Chase Bank, NA, et al., Case No. 82143; *JPMorgan Chase Bank, N.A. v. SFR Invs. Pool 1, LLC*, No. 77010, 136 Nev. Adv. Op. No. 68, 2020 WL 6373427 (Nev. Oct. 29, 2020) – Motion for Rehearing is currently pending.

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 30.130?

X 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

X A substantial issue of first impression

X 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:

This case raises an issue of first impression, not resolved in published opinions by either this Court or the Ninth Circuit: if Freddie Mac's mere ownership of the note resulting in its interest in the deed of trust converted what was an action based on § 4617(j)(3), a statute, into a claim akin to a contract claim, should production not only of the promissory notes, but of the contract between the GSE and the purported agent, be required. Further, this case addresses whether a district court that has already found genuine issue of material fact related to ownership, agency, etc. can decide on reconsideration those are no longer questions, despite the evidence not changing.

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:

NRAP 17(a)(11)-(12) – As set forth above, # 12, this case raises issues of first impression, or at least issues that has not yet been resolved in a published, binding opinion of this Court or the federal appellate courts, as to the necessity of production of an original wet-ink signature promissory note and relevant loan servicing agreements if, in fact, the underlying claim is deemed a “contract” action. Without binding case law on the issue, this case is presumptively retained by this Court.

This issue raises significant issues of public importance, since the interest through which 4617(j)(3) applies does not have to make itself known through the recording statutes. While the person in privity, the borrower who has defaulted on the association dues may know, a Freddie Mac interest is not required to be made public. Thus, no third party has knowledge that this preemptory statute may be at play nor does the non-party to the contract have access to the contract itself, which raises issues of the best evidence rule when relying on a writing for proof of all the contents of the contract, including specifically for this case the endorsements and any allonges on the promissory note and the agency and authority from Freddie Mac to Nationstar as to this particular loan and property. Deeming these actions contractual has created a legal landscape where property law has been usurped by hidden interests and where those whose property is at risk are denied the very documents the held to create the claim in the first instance.

14. **Trial.** If this action proceeded to trial, how many days did the trial last?

N/A

Was it a bench or jury trial?

N/A

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?

N/A

TIMELINESS OF NOTICE OF APPEAL

16. **Date of entry of written judgment or order appealed from**

October 6, 2020

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review: N/A

17. **Date written notice of entry of judgment or order was served**

October 6, 2020

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) N/A**

(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: N/A
☐ NRCP 52(b) Date of filing: N/A
NRCP 59 Date of filing: N/A

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/electronic

19. **Date notice of appeal filed**

November 5, 2020

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: N/A

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)

21. **Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

- ☒ NRAP 3A(b)(1)
 - ☐ NRAP 3A(b)(2)
 - ☐ NRAP 3A(b)(3)
 - ☐ NRS 38.205
 - ☐ NRS 233B.150
 - ☐ NRS 703.376
 - ☐ Other (specify)
-

(b) Explain how each authority provides a basis for appeal from the judgment or order:

This appeal is taken from the Proposed Order Granting Nationstar Mortgage LLC's Motion for Summary Judgment and Denying SFR's Motion to Strike (or alternative motion for Rule 56(d) relief and deeming SFR's motion to compel moot).

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

(a) Parties:

- Ignacio Gutierrez, Plaintiff/Counter-defendant ("Gutierrez")
- SFR Investments Pool 1, LLC, Defendant/Counterclaimant ("SFR")
- Nevada Association Services, Inc., Defendant ("NAS")
- Horizon Heights Homeowners Association, Defendant ("Association")
- KB Home Mortgage Company, Defendant ("KB")
- Nationstar Mortgage, LLC, Third-Party Defendant ("Nationstar")
- Countrywide Home Loans, Inc., Third-Party Defendant ("Countrywide")

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in the appeal, e.g., formally dismissed, not served, or other:

NAS and the Association were dismissed by Order entered 02/14/14. NAS did not pursue its claim against Gutierrez.

Gutierrez was dismissed by Stipulation and Order entered May 9, 2014. Additionally Gutierrez dismissed his claims against SFR and agreed to not contest the validity of SFR's deed to the Property by Stipulation and Order entered May 9, 2014.

KB – Gutierrez named KB but did not bring claims against KB – see Complaint.

Countrywide merged into pleadings with Nationstar.

Give a brief description (3 to 4 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Gutierrez' claims:

Against SFR – declaratory judgment – dismissed by SAO entered 05/09/14.

Against NAS and the Association – wrongful foreclosure and declaratory judgment – both dismissed per Order granting motion to dismiss entered 02/14/14.

Against KB – Gutierrez named KB but did not bring any claims against KB – see Complaint.

SFR's claims for quiet title and injunctive relief:

Against Gutierrez – dismissed by SAO entered 05/09/14.

Against Nationstar and Countrywide – denied on basis of §4617(j)(3). An order granting Nationstar's MSJ was entered 10/06/2020.

NAS counterclaim for Breach of Contract:

Against Gutierrez – Order Granting Motion to Dismiss Gutierrez' complaint granted with award of attorneys' fees on 02/14/14 – NAS did not pursue the breach of contract claim.

23. **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?**

X Yes

24. **If you answered “No” to question 23, complete the following:**

(a) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

Yes

No

(b) 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

25. **If you answered “No” to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

26. **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

| Exhibit | Title of Document | File-Stamp Date |
|----------------|--|------------------------|
| 1 | DC Docket | As of December 7, 2020 |
| 2 | Complaint | 07/08/2013 |
| 3 | SFR’s Answer, Counterclaim, and Third Party Complaint for Quiet Title and Injunctive Relief. | 08/02/2013 |

| | | |
|----|---|------------|
| 4 | Answer of Defendant Nevada Association Services, Inc. and Counterclaim. | 08/12/2013 |
| 5 | Order Granting Motion by Defendants Nevada Association Services, Inc. and Horizon Heights Homeowners Association to Dismiss Plaintiff's Complaint | 02/14/2014 |
| 6 | Notice of Entry of Order | 02/15/2014 |
| 7 | Stipulation and Order Dismissing Ignacio Gutierrez Without Prejudice | 05/09/2014 |
| 8 | Notice of Entry of Stipulation and Order | 05/12/2014 |
| 9 | [Proposed] Order Granting Nationstar Mortgage LLC's Motion for Summary Judgment and Denying SFR's Motion to Strike | 10/06/2020 |
| 10 | Notice of Entry of Order Granting Nationstar Mortgage LLC's Motion for Summary Judgment and Denying SFR's Motion to Strike | 10/06/2020 |
| 11 | SFR's Notice of Appeal | 11/05/2020 |
| 12 | SFR's Case Appeal Statement | 11/05/2020 |

DATED this 7th day of December, 2020.

KIM GILBERT EBRON

/s/ Jacqueline A. Gilbert
JACQUELINE A. GILBERT, ESQ.
Nevada Bar No. 10593
7625 Dean Martin Drive, Suite 110
Las Vegas, NV 89139
Attorneys for Appellant SFR
Investments Pool 1, LLC

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.

SFR Investments Pool 1, LLC

Name of appellant

Jacqueline A. Gilbert

Name of Counsel of Record

December 7, 2020

Date

/s/Jacqueline A. Gilbert

Signature of counsel of record

Clark County, Nevada

State and county where signed

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of December 2020, I filed the foregoing **DOCKETING STATEMENT**, which shall be served via electronic service from the Court's eFlex system to:

Master Service List

Docket Number and Case Title: 82078 - SFR INVS. POOL 1, LLC VS. NATIONSTAR MORTG., LLC
Case Category Civil Appeal
Information current as of: Dec 07 2020 02:18 p.m.

Electronic notification will be sent to the following:

Ariel Stern
Donna Wittig
Jacqueline Gilbert
Karen Hanks
Melanie Morgan
Scott Lachman

Notification by traditional means must be sent to the following:

Diana Ebron

/s/ Jacqueline A. Gilbert
An employee of Kim Gilbert Ebron

REGISTER OF ACTIONS**CASE NO. A-13-684715-C****Ignacio Gutierrez, Plaintiff(s) vs. SFR Investments Pool 1 LLC,
Defendant(s)**§
§
§
§
§
§
§
§
§

| | |
|------------------------------|--------------------------|
| Case Type: | Title to Property |
| Subtype: | Quiet Title |
| Date Filed: | 07/08/2013 |
| Location: | Department 18 |
| Cross-Reference Case Number: | A684715 |
| Supreme Court No.: | 69400 |
| | 75890 |
| | 82078 |

PARTY INFORMATION

| | | |
|------------------------------|--|---|
| Counter Claimant | Nevada Association Services, Inc. | Lead Attorneys Richard J. Vilkin <i>Retained</i> 702-873-5868(W) |
| Counter Claimant | SFR Investments Pool 1 LLC | Howard C. Kim <i>Retained</i> 702-485-3300(W) |
| Counter Defendant | Countrywide Home Loans Inc | Darren T. Brenner <i>Retained</i> 702-634-5000(W) |
| Counter Defendant | Nationstar Mortgage LLC | Ariel E. Stern <i>Retained</i> 702-634-5000(W) |
| Defendant | KB Home Mortgage Company | |
| Defendant | SFR Investments Pool 1 LLC | Howard C. Kim <i>Retained</i> 702-485-3300(W) |
| Plaintiff | Gutierrez, Ignacio | Preston S. Kerr <i>Retained</i> 702-451-2055(W) |
| Third Party Defendant | Countrywide Home Loans Inc | Darren T. Brenner <i>Retained</i> 702-634-5000(W) |
| Third Party Defendant | Nationstar Mortgage LLC | Ariel E. Stern <i>Retained</i> 702-634-5000(W) |
| Third Party Plaintiff | SFR Investments Pool 1 LLC | Howard C. Kim <i>Retained</i> 702-485-3300(W) |

EVENTS & ORDERS OF THE COURT**DISPOSITIONS**

| | |
|------------|--|
| 02/14/2014 | Order of Dismissal Without Prejudice (Judicial Officer: Villani, Michael) Debtors: Ignacio Gutierrez (Plaintiff) Creditors: Horizon Heights Homeowners Association (Defendant), Nevada Association Services, Inc. (Defendant) Judgment: 02/14/2014, Docketed: 02/24/2014 |
| 02/14/2014 | Judgment for Attorney's Fees (Judicial Officer: Villani, Michael) |

| | |
|------------|--|
| | Debtors: Ignacio Gutierrez (Plaintiff) Creditors: Nevada Association Services, Inc. (Defendant) Judgment: 02/14/2014, Docketed: 02/24/2014 Total Judgment: 1,650.56 |
| 05/09/2014 | Order of Dismissal Without Prejudice (Judicial Officer: Villani, Michael) Debtors: SFR Investments Pool 1 LLC (Defendant) Creditors: Ignacio Gutierrez (Plaintiff) Judgment: 05/09/2014, Docketed: 12/08/2014 Debtors: SFR Investments Pool 1 LLC (Counter Claimant) Creditors: Ignacio Gutierrez (Counter Defendant) Judgment: 05/09/2014, Docketed: 12/08/2014 |
| 11/25/2014 | Amended Judgment Vacated (Judicial Officer: Villani, Michael) Reason: Vacated Debtors: SFR Investments Pool 1 LLC (Third Party Plaintiff) Creditors: Nationstar Mortgage LLC (Third Party Defendant), Countrywide Home Loans Inc (Third Party Defendant) Judgment: 11/25/2014, Docketed: 11/19/2013 11/12/2013 Order of Dismissal With Prejudice (Judicial Officer: Villani, Michael) Debtors: SFR Investments Pool 1 LLC (Third Party Plaintiff) Creditors: Nationstar Mortgage LLC (Third Party Defendant), Countrywide Home Loans Inc (Third Party Defendant) Judgment: 11/12/2013, Docketed: 11/19/2013 |
| 07/28/2017 | Clerk's Certificate (Judicial Officer: Villani, Michael) Debtors: SFR Investments Pool 1 LLC (Third Party Plaintiff) Creditors: Nationstar Mortgage LLC (Third Party Defendant) Judgment: 07/28/2017, Docketed: 08/04/2017 Comment: Supreme Court No. 69400 APPEAL REVERSED AND REMANDED |
| 04/11/2018 | Summary Judgment (Judicial Officer: Villani, Michael) Debtors: SFR Investments Pool 1 LLC (Third Party Plaintiff) Creditors: Nationstar Mortgage LLC (Third Party Defendant) Judgment: 04/11/2018, Docketed: 04/11/2018 |
| 11/21/2019 | Clerk's Certificate (Judicial Officer: Holthus, Mary Kay) Debtors: Nationstar Mortgage LLC (Third Party Defendant) Creditors: SFR Investments Pool 1 LLC (Third Party Plaintiff) Judgment: 11/21/2019, Docketed: 11/25/2019 Comment: Supreme Court No. 75890 Appeal Vacated and Remand |
| 10/06/2020 | Summary Judgment (Judicial Officer: Holthus, Mary Kay) Debtors: SFR Investments Pool 1 LLC (Third Party Plaintiff) Creditors: Nationstar Mortgage LLC (Third Party Defendant) Judgment: 10/06/2020, Docketed: 10/07/2020 Comment: Certain Claims |

OTHER EVENTS AND HEARINGS

| | |
|------------|--|
| 07/08/2013 | Case Opened |
| 07/08/2013 | Complaint <i>Complaint</i> |
| 07/12/2013 | Notice of Service <i>Notice of Filing Affidavit of Service - Nevada Association Services Inc</i> |
| 07/12/2013 | Notice of Service <i>Notice of Filing Affidavit of Service - Horizon Heights Homeowners Association</i> |
| 07/12/2013 | Notice of Service <i>Notice of Filing Affidavit of Service</i> |
| 08/01/2013 | Notice of Lis Pendens <i>Notice of Lis Pendens</i> |
| 08/02/2013 | Answer and Counterclaim <i>Answer, Counterclaim and Third Party Complaint for Quiet Title and Injunctive Relief</i> |
| 08/05/2013 | Initial Appearance Fee Disclosure <i>Initial Appearance Fee Disclosure</i> |
| 08/06/2013 | Initial Appearance Fee Disclosure <i>Initial Appearance Fee Disclosure</i> |
| 08/06/2013 | Motion to Dismiss <i>Horizon Heights HOA's Motion to Dismiss Plaintiff's Complaint</i> |
| 08/07/2013 | Application for Entry of Default <i>Application for Entry of Default</i> |
| 08/08/2013 | Certificate of Service <i>Certificate of Service</i> |
| 08/12/2013 | Answer and Counterclaim <i>Answer Of Defendant Nevada Association Services, Inc. And Counterclaim</i> |
| 08/15/2013 | Answer <i>Answer to Defendant Nevada Association Services, Inc. And Counterclaim</i> |
| 08/15/2013 | Opposition <i>Opposition to Defendant Horizon Heights HOA's Motion to Dismiss Plaintiffs Complaint</i> |
| 08/19/2013 | Answer and Counterclaim <i>Answer to Defendant SFR Investment Pool 1, LLC's Counterclaim and Third Party Complaint</i> |
| 08/21/2013 | Affidavit of Service <i>Affidavit of Service - Countrywide Home Loans, Inc.</i> |
| 08/26/2013 | Default <i>Default</i> |
| 08/26/2013 | Joinder to Opposition to Motion <i>Limited Joinder to Plaintiff's Opposition to Horizon Heights Homeowner's Association's Motion to Dismiss.</i> |

| | |
|------------|---|
| 08/27/2013 | Notice of Entry of Default <i>Notice of Entry of Default</i> |
| 08/27/2013 | Certificate of Service <i>Certificate of Service</i> |
| 08/29/2013 | Notice of Appearance <i>Notice of Appearance</i> |
| 08/29/2013 | Initial Appearance Fee Disclosure <i>Initial Appearance Fee Disclosure</i> |
| 09/05/2013 | Affidavit of Service <i>Affidavit of Service</i> |
| 09/11/2013 | Motion to Dismiss (8:30 AM) (Judicial Officer Villani, Michael) <i>Horizon Heights HOA's Motion to Dismiss Plaintiff's Complaint</i> Parties Present Minutes Result: Matter Continued |
| 09/18/2013 | Motion to Dismiss <i>Motion to Dismiss Third Party Complaint</i> |
| 09/19/2013 | Certificate of Service <i>Certificate of Service</i> |
| 09/19/2013 | Notice of Change of Address <i>Notice of Change of Address and Notice of Change of Attorney</i> |
| 10/09/2013 | Opposition to Motion to Dismiss <i>Opposition to Nationstar Mortgage, LLC's Motion to Dismiss Third Party Complaint</i> |
| 10/14/2013 | Certificate of Service <i>Certificate of Service</i> |
| 10/16/2013 | Reply in Support <i>Reply in Support of Motion to Dismiss Third Party Complaint</i> |
| 10/23/2013 | Motion to Dismiss (8:30 AM) (Judicial Officer Villani, Michael) <i>Third Party Defendant Nationstar Mortgage LLC's Motion to Dismiss Third Party Complaint</i> Parties Present Minutes Result: Granted |
| 11/07/2013 | Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Third Party Defendant Nationstar Mortgage LLC'S Moton to Dismiss Third Party Complaint October 23, 2013</i> |
| 11/07/2013 | Notice of Change of Firm Name <i>Notice of Change of Firm Name</i> |
| 11/12/2013 | Order for Dismissal With Prejudice <i>(Vacated 11/25/14) Order Granting Nationstar Mortgage LLC's Motion to Dismiss Third Party Complaint</i> |
| 11/13/2013 | Notice of Entry of Order <i>Notice of Entry of Order</i> |
| 11/22/2013 | Motion to Dismiss <i>Motion By Defendant Nevada Association Services, Inc. To Dismiss Plaintiff's Complaint And For Attorneys Fees And Costs</i> |
| 11/22/2013 | Certificate of Mailing <i>Certificate Of Mailing</i> |
| 01/02/2014 | Joinder <i>Defendant Horizon Heights Homeowners Association's Joinder to Nevada Associations Motion to Dismiss</i> |
| 01/08/2014 | Motion to Dismiss (8:30 AM) (Judicial Officer Villani, Michael) <i>Motion By Defendant Nevada Association Services, Inc. To Dismiss Plaintiff's Complaint And For Attorneys Fees And Costs</i> Result: Granted |
| 01/08/2014 | Joinder (8:30 AM) (Judicial Officer Villani, Michael) <i>Defendant Horizon Heights Homeowners Association's Joinder to Nevada Associations Motion to Dismiss</i> Result: Granted |
| 01/08/2014 | All Pending Motions (8:30 AM) (Judicial Officer Villani, Michael) <i>Nevada Accosiation Services' Motion to Dismiss Plaintiff's Complamt and for Attorney's Fees and Costs . . . Horizon Heights Homeowners Association's Joinder</i> Parties Present Minutes Result: Matter Heard |
| 01/17/2014 | Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Third Party Defendant Nationstar Mortgage LLC'S Motion to Dismiss Third Party Complaint 10/23/13</i> |
| 02/14/2014 | Order Granting Motion <i>Order Granting Motion By Defendants Nevada Association Services, Inc. And Horizon Heights Homeowners Association To Dismiss Plaintiff's Complaint</i> |
| 02/15/2014 | Notice of Entry of Order <i>Notice Of Entry Of Order</i> |
| 03/28/2014 | Recorders Transcript of Hearing <i>Transcript of Proceedings Re: All Pending Motions January 8, 2014</i> |
| 05/09/2014 | Stipulation and Order for Dismissal Without Prejudice <i>Stipulation and Order Dismissing Ignacio Gutierrez without Prejudice</i> |
| 05/12/2014 | Notice of Entry of Stipulation & Order for Dismissal <i>Notice of Entry of Stipulation and Order</i> |
| 10/08/2014 | Answer to Third Party Complaint |
| 10/08/2014 | Initial Appearance Fee Disclosure <i>Initial Appearance Fee Disclosure</i> |
| 10/08/2014 | Notice of Appearance <i>Notice of Appearance</i> |
| 11/25/2014 | Stipulation and Order <i>Stipulation and Order Vacating Order Granting Nationstar Mortgage, LLC's Motion To Dismiss with Prejudice and Entering an Order Denying the Motion To Dismiss</i> |
| 11/26/2014 | Notice of Entry of Stipulation and Order <i>Notice of Entry of Stipulation and Order</i> |

| | |
|------------|--|
| 12/22/2014 | Joint Case Conference Report <i>Joint Case Conference Report</i> |
| 12/31/2014 | Scheduling Order <i>Scheduling Order</i> |
| 01/12/2015 | Order Setting Civil Non-Jury Trial <i>Order Setting Civil Non-Jury Trial</i> |
| 06/15/2015 | Designation of Expert Witness <i>SFR Investments Pool 1, LLC's Rebuttal Expert Witness Disclosure</i> |
| 07/21/2015 | Answer to Third Party Complaint <i>Nationstar Mortgage, LLC's Answer To SFR Investments Pool 1, LLC's Third-Party Complaint</i> |
| 07/27/2015 | Motion <i>Motion for Pre-Trial Coordination on Order Shortening Time</i> |
| 08/07/2015 | Opposition to Motion <i>Nationstar Mortgage, LLC and Countrywide Home Loans, Inc.'s Response in Opposition to SFR Investment Pool 1, LLC's Motion for Pre-Trial Coordination on Order Shortening Time</i> |
| 08/11/2015 | Motion to Coordinate (10:30 AM) (Judicial Officer Bare, Rob) <i>Defendant's Motion for Pre-Trial Coordination on Order Shortening Time</i> Minutes |
| | Result: Matter Heard |
| 08/25/2015 | Document Filed <i>Proposed Case Management Order</i> |
| 08/26/2015 | Affidavit of Due Diligence <i>Affidavit Of Due Diligence</i> |
| 08/26/2015 | Affidavit of Service <i>Affidavit Of Service</i> |
| 09/08/2015 | Motion for Summary Judgment <i>SFR Investments Pool 1, LLC's Motion for Summary Judgment</i> |
| 09/21/2015 | Motion in Limine <i>SFR Investments Pool 1, LLC's Motion in Limine to Strike Bank's Expert</i> |
| 09/28/2015 | Opposition to Motion For Summary Judgment <i>Bank of America, NA and Nationstar Mortgage, LLC's Opposition to Motion for Summary Judgment</i> |
| 09/28/2015 | Countermotion For Summary Judgment <i>Bank of America, N.A., as Successor By Merger To BAC Home Loans Servicing, LP fka Countrywide Home Loans, Inc. and Nationstar Mortgage, LLC's Countermotion For Summary Judgment</i> |
| 10/01/2015 | Joinder to Opposition to Motion <i>Joinder To Opposition and Notice of Opposition To SFR Investment Pool 1, LLC's Motion For Pre-Trial Coordination on Order Shortening Time</i> |
| 10/08/2015 | Opposition to Motion in Limine <i>Opposition to SFR Investments Pool 1, LLC's Motion in Limine to Exclude Expert</i> |
| 10/14/2015 | Reply in Support <i>SFR Investments Pool 1, LLC's Reply in Support of Motion for Summary Judgment, Motion to Strike Countermotion for Summaary Judgment, and Opposition to Countermotion for summary judgment</i> |
| 10/15/2015 | Reply in Support <i>Bank of America, NA AND Nationstar Mortgage, LLC's Reply in Support of Countermotion for Summary Judgment and Opposition to Motion to Strike</i> |
| 10/16/2015 | Pre-Trial Disclosure <i>SFR Investments Pool 1, LLC's Pre-Trial Disclosures</i> |
| 10/21/2015 | Motion for Summary Judgment (8:30 AM) (Judicial Officer Bixler, James) <i>SFR Investments Pool 1, LLC's Motion for Summary Judgment</i> <i>10/14/2015 Reset by Court to 10/21/2015</i> |
| | Result: Motion Granted |
| 10/21/2015 | Countermotion (8:30 AM) (Judicial Officer Bixler, James) <i>Bank of America, N.A., as Successor By Merger To BAC Home Loans Servicing, LP fka Countrywide Home Loans, Inc. and Nationstar Mortgage, LLC's Countermotion For Summary Judgment</i> <i>10/14/2015 Reset by Court to 10/21/2015</i> |
| | Result: Motion Denied |
| 10/21/2015 | All Pending Motions (8:30 AM) (Judicial Officer Bixler, James) Parties Present Minutes |
| | Result: Matter Heard |
| 10/28/2015 | CANCELED Motion in Limine (8:30 AM) (Judicial Officer Bixler, James) <i>Vacated</i> <i>SFR Investments Pool 1, LLC's Motion in Limine to Strike Bank's Expert</i> |
| 10/29/2015 | Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing Re All Pending Motions October 21, 2015</i> |
| 11/04/2015 | CANCELED Calendar Call (9:00 AM) (Judicial Officer Villani, Michael) <i>Vacated - per Law Clerk</i> |
| 11/10/2015 | Order Granting <i>Order Granting SFR Investments Pool 1, LLC's Motion for Summary Judgment and Denying Bank of America, N.A. and Nationstar Mortgage, LLC's Countermotion for Summary Judgment</i> |
| 11/10/2015 | Notice of Entry of Order <i>Notice of Entry of Order Granting SFR Investments Pool 1, LLC's Motion for Summary Judgment and Denying Bank of America, N.A. and Nationstar Mortgage, LLC's Countermotion for Summary Judgment</i> |
| 11/16/2015 | CANCELED Bench Trial (9:00 AM) (Judicial Officer Villani, Michael) <i>Vacated - per Law Clerk</i> |
| 12/09/2015 | Notice of Appeal <i>Notice of Appeal</i> |
| 12/09/2015 | Case Appeal Statement <i>Case Appeal Statement</i> |
| 12/16/2015 | Notice of Change of Address <i>Notice of Change of Address and Notice of Change of Firm Name</i> |
| 12/28/2015 | Request |

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| | <i>Request for Transcript of Proceedings</i> |
| 07/19/2017 | Status Check (8:30 AM) (Judicial Officer Villani, Michael) <i>Status Check: Supreme Court Remand</i> Parties Present Minutes Result: Matter Heard |
| 07/28/2017 | NV Supreme Court Clerks Certificate/Judgment -Remanded <i>Nevada Supreme Court Clerk's Certificate Judgment - Reversed and Remand</i> |
| 08/01/2017 | Recorders Transcript of Hearing <i>Transcript of Proceedings Status Check: Supreme Court Remand</i> |
| 11/15/2017 | Motion for Summary Judgment <i>Nationstar Mortgage, LLC's Renewed Motion For Summary Judgment</i> |
| 11/16/2017 | Motion for Summary Judgment <i>SFR Investments Pool 1, LLC's Motion for Summary Judgment</i> |
| 12/11/2017 | Motion <i>Nationstar Mortgage, LLC's Motion To Reopen Discovery</i> |
| 12/12/2017 | Stipulation and Order <i>Stipulation and Order to Extend Time to File Oppositions to Motions for Summary Judgment</i> |
| 12/14/2017 | Opposition and Countermotion <i>SFR Investments Pool 1, LLC's Opposition to Nationstar Mortgage, LLC's Motion for Summary Judgment and Counter Motion to Strike</i> |
| 12/14/2017 | Opposition to Motion For Summary Judgment <i>Nationstar Mortgage, LLC's Response in Opposition to SFR Investment Pool 1, LLC's Motion for Summary Judgment</i> |
| 12/20/2017 | Notice of Entry of Stipulation and Order <i>Notice Of Entry Of Stipulation And Order To Extend Time To Dile Oppositions To Motions For Summary Judgment</i> |
| 12/26/2017 | Notice of Intent <i>Notice of Intent to Reply in Support of Motion for Summary Judgment and to Oppose Countermotion To Strike</i> |
| 12/28/2017 | Reply in Support <i>SFR Investments Pool 1, LLC's Reply in Support of its Motion for Summary Judgment</i> |
| 12/29/2017 | Errata <i>Errata of Notice of Intent to Reply in Support of Motion for Summary Judgment and to Oppose Countermotion to Strike</i> |
| 12/29/2017 | Opposition <i>SFR Investments Pool 1, LLC s Opposition to Nationstar Mortgage, LLC s Motion to Reopen Discovery</i> |
| 01/03/2018 | Motion for Summary Judgment (8:30 AM) (Judicial Officer Villani, Michael) 01/03/2018, 01/17/2018 <i>Third Party Defendant Nationstar Mortgage, LLC's Renewed Motion For Summary Judgment</i> Result: Matter Continued |
| 01/03/2018 | Motion for Summary Judgment (8:30 AM) (Judicial Officer Villani, Michael) 01/03/2018, 01/17/2018 <i>Defendant SFR Investments Pool 1 LLC's Motion for Summary Judgment</i> Result: Matter Continued |
| 01/03/2018 | Opposition and Countermotion (8:30 AM) (Judicial Officer Villani, Michael) 01/03/2018, 01/17/2018 <i>Defendant SFR Investments Pool 1, LLC's Opposition to Nationstar Mortgage, LLC's Motion for Summary Judgment and Counter Motion to Strike</i> Result: Matter Continued |
| 01/03/2018 | All Pending Motions (8:30 AM) (Judicial Officer Villani, Michael) Parties Present Minutes Result: Matter Heard |
| 01/08/2018 | Notice of Change of Address <i>Notice Of Change Of Address</i> |
| 01/08/2018 | Errata <i>Nationstar Mortgage LLC s Errata To Motion For Summary Judgment</i> |
| 01/09/2018 | Reply in Support <i>Reply in Support of Motion to Reopen Discovery</i> |
| 01/10/2018 | Reply in Support <i>Nationstar's Reply In Support Of Motion For Summary Judgment And To Oppose Countermotion To Strike</i> |
| 01/11/2018 | Motion <i>Nationstar Mortgage LLC's Motion to Reopen Discovery</i> |
| 01/12/2018 | Reply in Support <i>SFR Investments Pool 1, LLC s Reply in Support Of Countermotion to Strike</i> |
| 01/17/2018 | CANCELED Motion (3:00 AM) (Judicial Officer Villani, Michael) <i>Vacated - per Law Clerk</i> <i>Third Party Defendant Nationstar Mortgage LLC's Motion to Reopen Discovery</i> |
| 01/17/2018 | All Pending Motions (8:30 AM) (Judicial Officer Villani, Michael) Parties Present Minutes Result: Matter Heard |
| 01/23/2018 | Recorders Transcript of Hearing <i>Transcript of Proceedings All Pending Motions Heard on January 17, 2018</i> |
| 01/31/2018 | Decision (3:00 AM) (Judicial Officer Villani, Michael) <i>Third Party Defendant Nationstar Mortgage, LLC's Renewed Motion For Summary Judgment Defendant SFR Investments Pool 1, LLC's Opposition to Nationstar Mortgage, LLC's Motion for Summary Judgment and Counter Motion to Strike</i> Minutes Result: Minute Order - No Hearing Held |
| 02/01/2018 | Opposition <i>SFR Investments Pool 1, LLC'S Opposition to Nationstar Mortgage, LLC'S Motion to Reopen Discovery</i> |
| 02/07/2018 | Reply in Support <i>Reply in Support of Moiton to Reopen Discovery</i> |
| 02/14/2018 | CANCELED Motion (9:00 AM) (Judicial Officer Bulla, Bonnie) |

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| | <i>Vacated - per Letter</i> |
| | <i>Nationstar Mortgage LLC's Motion to Reopen Discovery</i> |
| 04/11/2018 | Order Granting |
| | <i>Order Granting Nationstar Mortgage LLC's Renewed Motion for Summary Judgment</i> |
| 04/11/2018 | Notice of Entry of Judgment |
| | <i>Notice Of Entry Order Granting Nationstar Mortgage Llc s Renewed Motion For Summary Judgment</i> |
| 05/14/2018 | Notice of Appeal |
| | <i>Notice of Appeal</i> |
| 05/14/2018 | Case Appeal Statement |
| | <i>Case Appeal Statement</i> |
| 05/14/2018 | Amended Notice of Appeal |
| | <i>Amended Notice of Appeal</i> |
| 05/14/2018 | Amended Case Appeal Statement |
| | <i>Amended Case Appeal Statement</i> |
| 01/07/2019 | Case Reassigned to Department 18 |
| | <i>Judicial Reassignment - From Judge Villani to Judge Holthus</i> |
| 02/12/2019 | Amended Case Appeal Statement |
| | <i>Second Amended Case Appeal Statement</i> |
| 10/30/2019 | Order Scheduling Status Check |
| | <i>Order Scheduling Status Check Re: Supreme Court Order</i> |
| 11/20/2019 | Status Check (9:00 AM) (Judicial Officer Holthus, Mary Kay) |
| | 11/20/2019, 02/19/2020 |
| | <i>RE: Supreme Court Order</i> |
| | Parties Present |
| | Minutes |
| | Result: Supplemental Briefing Due |
| 11/21/2019 | NV Supreme Court Clerks Certificate/Judgment -Remanded |
| | <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Vacated and Remand</i> |
| 01/24/2020 | Stipulation and Order |
| | <i>Stipulation and Order Setting Supplemental Briefing Schedule Following Remand</i> |
| 01/24/2020 | Notice of Entry of Stipulation and Order |
| | <i>Notice of Entry of Stipulation and Order Setting Supplemental Briefing Schedule Following Remand</i> |
| 01/29/2020 | Supplemental Brief |
| | <i>Nationstar Mortgage LLC's Supplemental Briefing Following Remand</i> |
| 01/29/2020 | Supplement |
| | <i>SFR INVESTMENTS POOL 1, LLC S SUPPLEMENTAL BRIEF</i> |
| 02/03/2020 | Stipulation and Order |
| | <i>Amended Stipulation and Order Setting Supplemental Briefing Schedule Following Remand</i> |
| 02/04/2020 | Notice of Entry of Stipulation and Order |
| | <i>Notice of Entry of Amended Stipulation and Order Setting Supplemental Briefing Schedule Following Remand</i> |
| 02/12/2020 | Response |
| | <i>Nationstar Mortgage LLC's Response to SFR Investments Pool 1, LLC's Supplemental Briefing Following Remand</i> |
| 02/12/2020 | Response |
| | <i>SFR Investments Pool 1, LLC's Response to Nationstar Mortgage LLC's Supplemental Brief</i> |
| 02/19/2020 | Argument (9:00 AM) (Judicial Officer Holthus, Mary Kay) |
| | STATUS CHECK: SUPPLEMENTAL BRIEFING |
| | Result: Matter Heard |
| 02/19/2020 | All Pending Motions (9:00 AM) (Judicial Officer Holthus, Mary Kay) |
| | Parties Present |
| | Minutes |
| | Result: Matter Heard |
| 03/13/2020 | Stipulation and Order |
| | <i>Stipulation and Order to Reopen Discovery Following Remand</i> |
| 03/13/2020 | Notice of Entry of Stipulation and Order |
| | <i>Notice of Entry of Stipulation and Order to Reopen Discovery Following Remand</i> |
| 07/17/2020 | Motion for Summary Judgment |
| | <i>Nationstar Mortgage LLC's Motion for Summary Judgment</i> |
| 07/20/2020 | Clerk's Notice of Hearing |
| | <i>Notice of Hearing</i> |
| 08/06/2020 | Opposition |
| | <i>SFR INVESTMENTS POOL 1, LLC S OPPOSITION TO NATIONSTAR MORTGAGE, LLC S MOTION FOR SUMMARY JUDGEMENT, RENEWED COUNTERMOTION TO STRIKE OR IN THE ALTERNATIVE, COUNTERMOTION FOR RULE 56(d) RELIEF</i> |
| 08/12/2020 | Errata |
| | <i>ERRATA TO SFR INVESTMENTS POOL 1, LLC S OPPOSITION TO NATIONSTAR MORTGAGE, LLC S MOTION FOR SUMMARY JUDGEMENT, RENEWED COUNTERMOTION TO STRIKE OR IN THE ALTERNATIVE, COUNTERMOTION FOR RULE 56(d) RELIEF</i> |
| 08/12/2020 | Motion to Compel |
| | <i>SFR Investments Pool 1, LLC's Motion to Compel</i> |
| 08/17/2020 | Clerk's Notice of Hearing |
| | <i>Notice of Hearing</i> |
| 08/19/2020 | Reply in Support |
| | <i>Nationstar Mortgage LLC's Reply Supporting Summary Judgment and Opposition to Renewed Countermotion to Strike or in the Alternative, Countermotion for Rule 56(D) Relief</i> |
| 08/25/2020 | Reply in Support |
| | <i>Reply in Support of SFR Investments Pool 1, LLC's Renewed Countermotion to Strike or in the Alternative, Countermotion for Rule 56(d) Relief</i> |
| 08/26/2020 | Motion for Summary Judgment (10:00 AM) (Judicial Officer Holthus, Mary Kay) |
| | <i>Nationstar Mortgage LLC's Motion for Summary Judgment</i> |
| | Parties Present |
| | Minutes |
| | Result: Granted |
| 08/26/2020 | Opposition to Motion to Compel |
| | <i>Nationstar Mortgage LLC's Opposition to Renewed SFR Investment Pool 1, LLC's Motion to Compel</i> |

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| 09/16/2020 | CANCELED Motion to Compel (10:00 AM) (Judicial Officer Holthus, Mary Kay) <i>Vacated</i> <i>SFR Investments Pool 1, LLC's Motion to Compel</i> |
| 10/06/2020 | Order Granting Motion <i>[Proposed] Order Granting Nationstar Mortgage LLC's Motion for Summary Judgment and Denying SFR's Motion to Strike</i> |
| 10/06/2020 | Notice of Entry of Order <i>Notice of Entry of Order Granting Nationstar Mortgage LLC's Motion for Summary Judgment and Denying SFR's Motion to Strike</i> |
| 11/05/2020 | Notice of Appeal <i>Notice of Appeal</i> |
| 11/05/2020 | Case Appeal Statement <i>Case Appeal Statement</i> |
| 12/01/2020 | Request <i>REQUEST FOR TRANSCRIPT OF PROCEEDINGS</i> |

FINANCIAL INFORMATION

| | | | |
|---|-------------------------------------|-----------------------------|---|
| Counter Claimant Nevada Association Services, Inc. | | | |
| | Total Financial Assessment | | 223.00 |
| | Total Payments and Credits | | 223.00 |
| | Balance Due as of 12/07/2020 | | 0.00 |
| 08/12/2013 | Transaction Assessment | | 223.00 |
| 08/12/2013 | Efile Payment | Receipt # 2013-97130-CCCLK | Nevada Association Services, I (223.00) |
| Counter Claimant SFR Investments Pool 1 LLC | | | |
| | Total Financial Assessment | | 806.00 |
| | Total Payments and Credits | | 806.00 |
| | Balance Due as of 12/07/2020 | | 0.00 |
| 08/05/2013 | Transaction Assessment | | 223.00 |
| 08/05/2013 | Efile Payment | Receipt # 2013-94418-CCCLK | SFR Investments Pool 1 LLC (223.00) |
| 08/05/2013 | Transaction Assessment | | 135.00 |
| 08/05/2013 | Efile Payment | Receipt # 2013-94419-CCCLK | SFR Investments Pool 1 LLC (135.00) |
| 09/08/2015 | Transaction Assessment | | 200.00 |
| 09/08/2015 | Efile Payment | Receipt # 2015-94688-CCCLK | SFR Investments Pool 1 LLC (200.00) |
| 11/17/2017 | Transaction Assessment | | 200.00 |
| 11/17/2017 | Efile Payment | Receipt # 2017-86821-CCCLK | SFR Investments Pool 1 LLC (200.00) |
| 05/14/2018 | Transaction Assessment | | 24.00 |
| 05/14/2018 | Efile Payment | Receipt # 2018-32583-CCCLK | SFR Investments Pool 1 LLC (24.00) |
| 11/05/2020 | Transaction Assessment | | 24.00 |
| 11/05/2020 | Efile Payment | Receipt # 2020-62795-CCCLK | SFR Investments Pool 1 LLC (24.00) |
| Counter Defendant Countrywide Home Loans Inc | | | |
| | Total Financial Assessment | | 623.00 |
| | Total Payments and Credits | | 623.00 |
| | Balance Due as of 12/07/2020 | | 0.00 |
| 10/08/2014 | Transaction Assessment | | 223.00 |
| 10/08/2014 | Efile Payment | Receipt # 2014-114955-CCCLK | Countrywide Home Loans Inc (223.00) |
| 09/29/2015 | Transaction Assessment | | 200.00 |
| 09/29/2015 | Efile Payment | Receipt # 2015-102740-CCCLK | Countrywide Home Loans Inc (200.00) |
| 11/16/2017 | Transaction Assessment | | 200.00 |
| 11/16/2017 | Efile Payment | Receipt # 2017-86408-CCCLK | Countrywide Home Loans Inc (200.00) |
| Counter Defendant Gutierrez, Ignacio | | | |
| | Total Financial Assessment | | 270.00 |
| | Total Payments and Credits | | 270.00 |
| | Balance Due as of 12/07/2020 | | 0.00 |
| 07/08/2013 | Transaction Assessment | | 270.00 |
| 07/08/2013 | Efile Payment | Receipt # 2013-81817-CCCLK | Gutierrez, Ignacio (270.00) |
| Counter Defendant Nationstar Mortgage LLC | | | |
| | Total Financial Assessment | | 447.00 |
| | Total Payments and Credits | | 447.00 |
| | Balance Due as of 12/07/2020 | | 0.00 |
| 08/29/2013 | Transaction Assessment | | 223.00 |
| 08/29/2013 | Efile Payment | Receipt # 2013-105386-CCCLK | Nationstar Mortgage LLC (223.00) |
| 12/09/2015 | Transaction Assessment | | 24.00 |
| 12/09/2015 | Efile Payment | Receipt # 2015-127720-CCCLK | Nationstar Mortgage LLC (24.00) |
| 07/17/2020 | Transaction Assessment | | 200.00 |
| 07/17/2020 | Efile Payment | Receipt # 2020-38911-CCCLK | Nationstar Mortgage LLC (200.00) |

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|------------|------------------------|---|--------------------------------|-------------|
| | | Defendant Horizon Heights Homeowners Association | | |
| | | Total Financial Assessment | | 223.00 |
| | | Total Payments and Credits | | 223.00 |
| | | Balance Due as of 12/07/2020 | | 0.00 |
| 08/06/2013 | Transaction Assessment | | | 223.00 |
| 08/06/2013 | Efile Payment | Receipt # 2013-94901-CCCLK | Horizon Heights Homeowners Ass | (223.00) |

CIVIL COVER SHEET

A - 13 - 684715 - C

Clark County, Nevada

XVII

Case No. _____
(Assigned by Clerk's Office)**I. Party Information**

Plaintiff(s) (name/address/phone):

Ignacio Gutierrez

Attorney (name/address/phone):

Law Offices of P. Sterling Kerr

2450 St. Rose Parkway #120

Henderson, NV 89074

Defendant(s) (name/address/phone): SFR INVESTMENTS POOL 1, LLC

Attorney (name/address/phone):

Howard C. Kim, Esq.

400 N. Stephanie St, Suite 160

Henderson, NV 89014

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

| Real Property | Torts | |
|---|---|---|
| <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input checked="" type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input checked="" type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning | <input type="checkbox"/> Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other | <input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition |
| Probate | Other Civil Filing Types | |
| Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate | <input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal | <input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters |

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

- ☐ NRS Chapters 78-88
☐ Commodities (NRS 90)
☐ Securities (NRS 90)

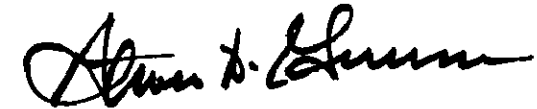
- ☐ Investments (NRS 104 Art. 8)
☐ Deceptive Trade Practices (NRS 598)
☐ Trademarks (NRS 600A)

- ☐ Enhanced Case Mgmt/Business
☐ Other Business Court Matters

7/8/13

Date

Signature of initiating party or representative



CLERK OF THE COURT

P. STERLING KERR, ESQ.
Nevada Bar No. 003978
LAW OFFICES OF P. STERLING KERR
2450 St. Rose Parkway, Suite 120
Henderson, Nevada 89074
Telephone No. (702) 451-2055
Facsimile No. (702) 451-2077
Email: psklaw@aol.com
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC;
NEVADA ASSOCIATION SERVCIES INC.,
HORIZON HEIGHTS HOMEOWNERS,
ASSOCIATION, KB HOME MORTGAGE
COMPANY a foreign corporation, DOE
Individuals I through X; ROE Corporations
and Organizations I through X;

Defendant

Case No.: A - 13 - 684715 - C
Dept: XVII

EXEMPT FROM ARBITRATION
(Title to Real Property)

COMPLAINT

COMES NOW, Plaintiff, IGNACIO GUTIERREZ, an individual, by and through his attorney, the LAW OFFICES OF P. STERLING KERR, and complains and alleges as follows:

GENERAL ALLEGATIONS

1. Plaintiff, IGNACIO GUTIERREZ, an individual, (hereinafter "GUTIERREZ"), at all times relevant herein, is a resident of the County of Clark, State of Nevada, and did own certain real property, the subject of this litigation, known as 668 Moonlight Stroll Street, Henderson, NV 89002 (hereinafter the "subject property"), and is more particularly described as follows:

LAW OFFICES OF P. STERLING KERR
ATTORNEYS AT LAW
2450 St. Rose Parkway, Suite 120, Henderson, Nevada 89074
Telephone: (702) 451-2055 Facsimile: (702) 451-2077

1 HORIZON HGTS PHASE 2 PLAT BOOK 119 PAGE 62 LOT 166 CLARK
2 COUNTY.

3 APN 179-31-714-046

4 2. Defendant, SFR INVESTMENTS POOL, 1, LLC, (hereafter "SFR" is and, at
5 all times relevant herein, was licensed to do business in the State of Nevada and was
6 engaged in business in such State.

7 3. Defendant, NEVADA ASSOCIATION SERVICES, INC., a Nevada
8 Corporation (hereinafter "NAS"), is and, at all times relevant herein, was licensed to do
9 business in the State of Nevada and was engaged in business in such State.

10 4. Defendant, HORIZON HEIGHTS HOMEOWNERS ASSOCIATION.,
11 (hereinafter "HORIZON HEIGHTS HOA"), is and, at all times relevant herein, was licensed
12 to do business in the State of Nevada and was engaged in business in such State.

13 5. Defendant, KB HOME MORTGAE COMPAN, a foreign corporation. At all
14 times material to this Complaint, KB Home Mortgage Company was doing business in the
15 State of Nevada. KB Home Mortgage Company is an interested party in this suit as the
16 holder of the mortgage on the subject property.

17 6. Pursuant to Nevada Rules of Civil Procedure, Rule 10(a) and Nuremberger
18 Hercules-Werke GMBH v. Virostek, 107 Nev. 873, 822 P.2d 1100 (1991), the true names
19 and capacities, whether individual, corporate, associate or otherwise, of Defendants named
20 herein as DOE Individuals I through X and ROE Corporations and Organizations I through
21 X, are unknown at the present time; however, it is alleged and upon information and belief,
22 that these Defendants were involved in the initiation, approval, support, or execution of the
23 wrongful acts upon which this litigation is premised, or of similar actions directed against
24 Plaintiff about which they were presently unaware. As the specific identity of these parties
25 are revealed through the course of discovery, the Plaintiff will ask leave of the Court to
26 amend the Complaint so that the DOE and/or ROE appellations will be replaced to identify
27 these parties by their true names and capacities.
28

FACTS

7. Plaintiff incorporates by reference each of the statements set forth in paragraphs 1 through 6 as though they were fully set forth herein.

8. On or about July 20, 2005, GUTIERREZ purchased the subject property, receiving a Deed from KB Home Nevada, Inc.

9. The Deed from KB Home Nevada, Inc. was recorded on July 20, 2005, in the Office of the Clark County Recorder, document number 20050720-0004599.

10. The subject property is governed by Defendant HORIZON HEIGHTS HOA.

11. On February 20, 2013, Defendant NAS recorded a Notice on the Subject Property.

13. Upon information and belief, the subject property was sold during a Trustee Sale to Defendant SFR INVESTMETNS POOL 1, LLC.

14. GUTIERREZ is unaware of when the trustee's sale took place, as no Trustee's Deed on Sale has been recorded on the title of the subject property.

15. GUTIERREZ was NOT notified of the trustee's sale until May 11, 2013, when he received a THREE-DAY NOTICE TO QUIT DUE TO FORECLOSURE from the purported purchaser of the property, Defendant SFR INVESTMENTS POOL 1, LLC.

16. The THREE-DAY NOTICE TO QUIT DUE TO FORECLOSURE gives the reason as "On April 5, 2013, the property you occupy was sold at an HOA foreclosure sale which extinguished your interest in the property pursuant to NRS 116.31166.

17. NRS 107.080, NRS 107.085, and NRS 21.130 prescribe specific notice requirements before a trustee's sale can lawfully take place in the state of Nevada.

18. GUTIERREZ received no notice of the pending foreclosure sale from Defendant HORIZON HEIGHTS HOA or NAS prior to the trustee's sale taking place.

19. Defendants HORIZON HEIGHTS HOA and NAS failed to comply with the statutorily imposed notice requirements with regard to the above-referenced property before allowing the Trustee Sale to occur.

1 20. Because the statutorily imposed notice requirements were not followed by the
2 Defendants, the Trustee's Sale should be set aside and any transfer of interest should be
3 voided by the Court.

4 21. With no other recourse to protect GUTIERREZ property rights,
5 GUTIERREZ filed the instant Complaint.

6 **FIRST CLAIM FOR RELIEF**

7 **(Wrongful Foreclosure)**

8 22. Plaintiff incorporates by reference each of the statements set forth in
9 paragraphs 1 through 22, as if fully set forth herein.

10 23. HORIZON HEIGHTS HOA and NAS failed to comply with NRS 107.080,
11 NRS 107.085, and NRS 21.130's statutorily imposed notice requirements with regard to the
12 Subject Property before allowing the Trustee's Sale to occur such that there existed a defect
13 in the foreclosure sale proceedings of the subject property.

14 24. HORIZON HEIGHTS HOA and NAS failed to give GUTIERREZ personal
15 notice with regard to the Subject Property before allowing for this Trustee's sale to occur
16 such that there existed a defect in the foreclosure sale proceedings of the subject property.

17 25. HORIZON HEIGHTS HOA and NAS failed to give GUTIERREZ a
18 meaningful opportunity to dispute the foreclosure and Trustee Sale with regard to the above-
19 referenced property before allowing for this Trustee's Sale to occur such that there exists a
20 defect in the foreclosure sale proceedings of the subject property.

21 26. Upon information and belief, the Subject Property was sold for a grossly
22 inadequate selling price.

23 27. Upon information and belief, a causal connection between the defect and the
24 grossly inadequate selling price exists.

25 28. That as a result of NEVADA HEIGHTS HOA and NAS's Wrongful
26 Foreclosure as described above, GUTIERREZ have been damaged in an amount in excess of
27 \$10,000.00, together with fees, costs, interest thereon at the maximum legal rate until paid in
28 full and other such damage according to proof.

1 29. That as a result of the Wrongful Foreclosure, GUTIERREZ has been required
2 to retain an attorney to prosecute this matter and as such are entitled to reasonable attorneys'
3 fees in this regard.

4
5 **SECOND CLAIM FOR RELIEF**

6 **(Declaratory Judgment)**

7 30. Plaintiff incorporates by reference each of the statements set forth in
8 paragraphs 1 through 30, as if fully set forth herein.

9 31. HORIZON HEIGHTS HOA and NAS failed to adequately notify
10 GUTIERREZ of the foreclosure and Trustee Sale as described above.

11 32. Nonetheless, HORIZON HEIGHTS HOA, through its agent, NAS, carried
12 forward with foreclosure proceedings in spite of its failure to provide any notice.

13 33. As a result of the Wrongful Foreclosure sale, Defendant SFR
14 INVESTMENTS POOL 1, LLC., purportedly purchased defective title to the subject
15 property at the Trustee Sale.

16 34. Pursuant to NRS Chapter 30.040, GUTIERREZ seek a Declaratory Judgment
17 setting aside the Trustee Sale of the Subject Property.

18 35. These failures by the Defendants have damaged GUTIERREZ in an amount
19 in excess of \$10,000.00.

20 36. That as a result of the actions by Defendants, that GUTIERREZ has been
21 required to retain an attorney to prosecute this matter and as such are entitled to reasonable
22 attorneys' fees in addition to his damages.

23
24 WHEREFORE, Plaintiffs pray for judgment against the Defendant as follows:

- 25 1. For an order setting aside the trustee sale.
26 2. For general damages in an amount in excess of \$10,000.00;
27 3. For attorneys' fees, costs of suit, and interest for bringing the suit; and
28

5. For such other and further relief as the Court may deem just and proper in the premises.

Dated this 8th day of July, 2013

/s/ P. Sterling Kerr
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Nevada Bar No. 003978
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7 Attorneys for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 IGNACIO GUTIERREZ, an individual

11 Plaintiff(s),

CASE NO.

12 -vs-

DEPT. NO.

13 SFR INVESTMENTS POOL, 1, LLC;
14 NEVADA ASSOCIATION SERVCIES
15 INC., HORIZON HEIGHTS
16 HOMEOWNERS, ASSOCIATION, KB
17 HOMES MORTGAGE COMPANY, a
18 foreign corporation, DOE Individuals I
through X; ROE Corporations and
Organizations I through X;

19 Defendant(s).

20 INITIAL APPEARANCE FEE DISCLOSURE (NRS CHAPTER 19)

21 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are
22 submitted for parties appearing in the above entitled action as indicated below:
23

| New Complaint Fee | 1 st Appearance Fee |
|--|---|
| <input type="checkbox"/> \$1530 <input type="checkbox"/> \$520 <input type="checkbox"/> \$299 X \$270.00 | <input type="checkbox"/> \$1483.00 <input type="checkbox"/> \$473.00 x \$223.00 |
| Name: IGNACIO GUTIERREZ | |
| \$30 | |
| <input type="checkbox"/> \$30 | |

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☐ Total of Continuation Sheet Attached

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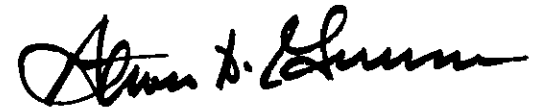
TOTAL REMITTED: (Required)

Total Paid

\$ 270.00

DATED this 8th day of July, 2013.

/s/ P. Sterling Kerr
P. STERLING KERR, Esq.



CLERK OF THE COURT

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9

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 **IGNACIO GUTIERREZ, an individual,**

13 **Plaintiff,**

14 **vs.**

15 **SFR INVESTMENTS POOL 1, LLC;**
16 **NEVADA ASSOCIATION SERVICES INC.,**
17 **HORIZON HEIGHTS HOMEOWNERS**
18 **ASSOCIATION, KB HOME MORTGAGE**
19 **COMPANY, a foreign corporation, DOE**
20 **Individuals I through X; ROE Corporations**
21 **and Organizations I through X;**

22 **Defendants.**

Case No. A-13-684715-C

Dept. No. XVII

**ANSWER, COUNTERCLAIM, AND
THIRD PARTY COMPLAINT FOR QUIET
TITLE AND INJUNCTIVE RELIEF**

**ARBITRATION EXCEPTION CLAIMED:
TITLE TO REAL ESTATE**

23 **SFR INVESTMENTS POOL 1, LLC, Nevada**
24 **limited liability company,**

25 **Counter-Claimant and Third Party Plaintiff,**

26 **vs.**

27 **IGNACIO GUTIERREZ, an individual;**
28 **NATIONSTAR MORTGAGE, LLC., a**
Delaware limited liability company;
COUNTRYWIDE HOME LOANS, INC., a
foreign corporation; DOES I-X; and ROES 1-
10, inclusive,

Counter-Defendant/ Third Party Defendants.

HOWARD KIM & ASSOCIATES

400 N. STEPHANIE ST, SUITE 160

HENDERSON, NEVADA 89014

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

1 SFR INVESTMENTS POOL 1, LLC (“SFR”), by and through its attorneys of record,
2 the law firm HOWARD KIM AND ASSOCIATES, hereby answers IGNACIO GUTIERREZ’s
3 (“Gutierrez” or “Plaintiff”) complaint as follows:

4 **INTRODUCTION**

5 1. SFR admits the allegations contained in paragraph 1 of the complaint, upon information
6 and belief.

7 2. SFR admits the allegations contained in paragraph 2, upon information and belief.

8 3. SFR is without sufficient knowledge or information to form a belief as to the truth of the
9 factual allegations contained in paragraphs 3, 4, 5 and 6 of the complaint, and therefore denies
10 said allegations.

11 **FACTS**

12 4. SFR repeats and realleges its answers to paragraphs 1 through 6 of the complaint as
13 though fully set forth herein.

14 5. The documents referenced in paragraphs 8 and 9 of the complaint speak for themselves
15 and SFR denies any allegations inconsistent with the documents.

16 6. SFR admits the allegations contained in paragraphs 10, 11, 13[sic] upon information and
17 belief.

18 7. SFR is without sufficient knowledge or information to form a belief as to the truth of the
19 factual allegations contained in paragraph 14, 15 and 16 of the complaint, and therefore denies
20 said allegations. The documents referenced in paragraphs 14, 15 and 16 of the complaint speak
21 for themselves and SFR denies any allegations inconsistent with the documents.

22 8. The allegations contained in paragraphs 17, 18, 19, 20 and 21 of the complaint call for a
23 legal conclusion, therefore, no answer is required. To the extent an answer is required, SFR
24 denies the factual allegations contained in paragraph 17, 18, 19, 20 and 21 of the complaint.

25 **FIRST CLAIM FOR RELIEF**
26 **(Wrongful Foreclosure)**

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

10. The allegations contained in paragraphs 23, 24, 25, 26, 27, 28 and 29 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, 24, 25, 26, 27, 28 and 29 of the complaint.

SECOND CLAIM FOR RELIEF
(Declaratory Judgment)

11. SFR repeats and realleges its answers to paragraphs 1 through 29 of the complaint as though fully set forth herein.

12. The allegations contained in paragraphs 31, 32, 33, 34, 35 and 36 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 31, 32, 33, 34, 35 and 36 of the complaint.

AFFIRMATIVE DEFENSES

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

2. Plaintiff is not entitled to relief from or against SFR, as Plaintiff 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 Plaintiff.

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. Plaintiff has failed to satisfy and/or cannot satisfy conditions precedent to setting aside the HOA foreclosure sale.

6. Any and all acts alleged to have been committed by SFR, if any, were reasonably undertaken to protect the tangible and intangible assets of SFR and therefore, were justified and/or privileged.

7. SFR did not breach any statutory or common law duties allegedly owed to Plaintiff.

1 8. Plaintiff's claims are barred because SFR complied with applicable statutes and with the
2 requirements and regulations of the State of Nevada.

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

5 10. Plaintiff is not entitled to equitable relief because it has an adequate remedy at law.

6 11. Plaintiff's damages, if any, were the result of intervening, superseding, concurrent,
7 and/or contributing causes. Any alleged action or alleged omission on the part of SFR was not
8 the proximate cause of Plaintiff's alleged damages.

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

13 **COUNTERCLAIM AND THIRD PARTY COMPLAINT**

14 **FOR QUIET TITLE AND INJUNCTIVE RELIEF**

15 SFR INVESTMENTS POOL 1, LLC ("SFR"), by and through its attorneys of record,
16 the law firm HOWARD KIM AND ASSOCIATES, hereby demands quiet title, requests
17 injunctive relief and claims unjust enrichment against Counter-defendant IGNACIO
18 GUTIERREZ, Third Party Defendant, NATIONSTAR MORTGAGE, LLC and Third Party
19 Defendant, COUNTRYWIDE HOME LOANS, INC. as follows:

20 **I. PARTIES**

21 1. SFR is a Nevada limited liability company with its principal place of business in Clark
22 County, Nevada and the current title owner of the property commonly known as **668 Moonlight**
23 **Stroll Street, Henderson, NV 89015; Parcel No. 179-31-714-046** (the "Property").

24 2. Upon information and belief, Counter-Defendant IGNACIO GUTIERREZ
25 ("Gutierrez"), an individual who is the former homeowner that may claim an interest in the
26 Property.

1 3. Upon information and belief, Third Party Defendant NATIONSTAR MORTGAGE,
2 LLC, is a Delaware limited liability company that may claim an interest in the Property via a
3 2005 deed of trust.

4 4. Upon information and belief, Third Party Defendant COUNTRYWIDE HOME
5 LOANS, INC. is a foreign corporation that may claim an interest in the Property via a 2005
6 deed of trust.

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

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

18 19 **II. GENERAL ALLEGATIONS**

20 **SFR Acquired Title to the Property through Foreclosure of an Association Lien with Super** 21 **Priority Amounts**

22 7. SFR acquired the Property on April 5, 2013 by successfully bidding on the Property at a
23 publicly-held foreclosure auction in accordance with NRS 116.3116, et. seq. (“Association
24 foreclosure sale”). Since the Association foreclosure sale, SFR has expended additional funds
25 and resources in relation to the Property.

26 8. On or about April 8, 2013, the resulting foreclosure deed was recorded in the Official
27 Records of the Clark County Recorder as Instrument Number 201304080001036 (“Association
28 Foreclosure Deed”).

1 9. The foreclosure sale was conducted by Nevada Association Services, Inc. ("NAS"), agent
2 for Horizon Heights (the "Association"), pursuant to the powers conferred by the Nevada
3 Revised Statutes 116.3116, 116.31162, 116.31163 and 116.31164, the Association's governing
4 documents (CC&R's) and a Notice of Delinquent Assessment Lien, recorded on July 10, 2012 in
5 the Official Records of the Clark County Recorder as Instrument Number 201207100001296
6 ("Association Lien").

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

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

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

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

15 (b) A first security interest on the unit recorded before the date on which the
16 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

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

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

20 [the Association Lien] is also prior to all security interests described in paragraph
21 (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
22 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
23 9 months immediately preceding institution of an action to enforce the lien[.]

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

26 14. Upon information and belief, no party still claiming an interest in the Property recorded a
27 lien or encumbrance prior to the declaration creating the Association.

28 15. Upon information and belief, SFR's bid on the Property was in excess of the amount

1 necessary to satisfy the costs of sale and the super-priority portion of the Association Lien.

2 16. Upon information and belief, the Association or its agent NAS distributed or should have
3 distributed the excess funds to lien holders in order of priority pursuant to NRS 116.3114(c).

4 17. Upon information and belief, Counter-Defendant and Third Party Defendants had actual
5 or constructive notice of the requirement to pay assessments to the Association and of the
6 Association Lien.

7 18. Upon information and belief, Counter-Defendant and Third Party Defendants had actual
8 or constructive notice of the Association's foreclosure proceedings.

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

11 20. Upon information and belief, Counter-Defendant Gutierrez had actual or constructive
12 notice of the super-priority portion of the Association Lien.

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

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

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

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

26 24. Upon information and belief, Counter-Defendant, Gutierrez, first obtained title to the
27 Property in July of 2005 through a Grant, Bargain Sale Deed from KB Home Mortgage
28 Company.

25. On or about July 20, 2005, KB Home Mortgage Company ("KB Home Mortgage") recorded a deed of trust against the Property in the Official Records of the Clark County Recorder as Instrument No. 200507200004600 ("First Deed of Trust").

26. 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.

27. Upon information and belief, KB Home Mortgage 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.

28. On or about July 20, 2005, KB Home Mortgage Company ("KB Home Mortgage") recorded a second deed of trust against the Property in the Official Records of the Clark County Recorder as Instrument No. 200507200004601 ("Second Deed of Trust").

29. 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 Second Deed of Trust was recorded.

30. Upon information and belief, KB Home Mortgage had actual or constructive notice of the Association Lien and NRS 116.3116 before it funded the loan secured by the Second Deed of Trust.

31. Mercedes Judilla, Collateral Processing Officer for Countrywide Bank, N.A., FKA Countrywide Document Services, a Division of Treasury Bank, N.A. executed an assignment, dated September 6, 2005 that transferred the beneficial interest in the Second Deed of Trust, together with the underlying promissory note, to Countrywide Home Loans, Inc. ("Countrywide"). The assignment was recorded on March 13, 2006 against the Property in Official Records of the Clark County Recorder as Instrument No. 200603130004142.

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

33. Miguel Romero, Vice President for Mortgage Electronic Registration Systems, Inc., executed an assignment, dated April 17, 2012 that transferred the beneficial interest in the First Deed of Trust, together with the underlying promissory note, to Bank of America, N.A.

1 (“BofA”). The assignment was recorded on April 23, 2012 against the Property in Official
2 Records of the Clark County Recorder as Instrument No. 201204230000265.

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

5 35. Susan Lindhorst, assistant secretary for Bank of America, executed an assignment, dated
6 November 21, 2012 that transferred the beneficial interest in the First Deed of Trust, together
7 with the underlying promissory note, to Nationstar Mortgage, LLC (“Nationstar”). The
8 assignment was recorded on November 28, 2012 against the Property in Official Records of the
9 Clark County Recorder as Instrument No. 201211280003539.

10 36. On or about, July 8, 2013, Gutierrez filed a Complaint for wrongful foreclosure and
11 declaratory relief.

12 37. Counter-Defendant Gutierrez’s interest in the Property was extinguished by the
13 foreclosure of the Association Lien.

14 38. Third Party Defendant Nationstar’s security interest in the Property was extinguished by
15 the foreclosure of the super priority portion of the Association Lien.

16 39. Third Party Defendant Countrywide’s security interest in the Property was extinguished
17 by the foreclosure of the super priority portion of the Association Lien.

18 **III. FIRST CLAIM FOR RELIEF**
19 **(Declaratory Relief/Quiet Title Pursuant to NRS 30.010, et. seq., NRS 40.10 & NRS**
20 **116.3116)**

21 40. SFR repeats and realleges the allegations of paragraphs 1-39 as though fully set forth
22 herein and incorporates the same by reference.

23 41. Pursuant to NRS 30.010, et. seq. and NRS 40.10, this Court has the power and authority
24 to declare the SFR’s rights and interests in the Property and to resolve the Counter-Defendant
25 and Third Party Defendants’ adverse claims in the Property.

26 42. SFR acquired the Property on April 5, 2013 by successfully bidding on the Property at a
27 publicly-held foreclosure auction in accordance with NRS 116.3116, et. seq. and the resulting
28 Association Foreclosure Deed vesting title in SFR was recorded on April 8, 2013.

43. Upon information and belief, Counter-Defendant, Gutierrez, may claim an ownership

1 interest in the Property.

2 44. Upon information and belief, Third Party Defendant Nationstar may claim an interest in
3 the Property via the First Deed of Trust against the Property even after the Association
4 foreclosure sale.

5 45. Upon information and belief, Third Party Defendant Countrywide may claim an interest
6 in the Property through the Second Deed of Trust even after the Association foreclosure sale.

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

10 47. Pursuant to NRS 116.3116(2), the super-priority portion of the Association Lien has
11 priority over the First and Second Deeds of Trust.

12 48. Counter-Defendant and Third Party Defendants were duly notified of the Association
13 foreclosure sale and failed to act to protect their interests in the Property, if any legitimately
14 existed.

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

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

21 **IV. SECOND CLAIM FOR RELIEF**
22 **(Unjust Enrichment)**

23 51. SFR repeats and realleges the allegations of paragraphs 1- 50 as though fully set forth
24 herein and incorporate the same by reference.

25 52. SFR has expended funds and resources in connection with the acquisition and
26 maintenance of the Property.

27 53. Counter-Defendant and Third Party Defendants have benefitted or will benefit from the
28 funds and resources expended by SFR.

1 54. If SFR does not maintain title to and possession of the Property, Counter-Defendant and
2 Third Party Defendants will have been unjustly enriched by the funds and resources expended by
3 SFR.

4 55. SFR will be damaged if Counter-Defendant and Third Party Defendatns retain the benefit
5 of the funds and resources expended by SFR.

6 56. SFR has been required to hire attorneys to protect its rights in the Property and to pursue
7 this action.

8 57. SFR is entitled to general and special damages in excess of \$10,000.00.

9 **V. THIRD CLAIM FOR RELIEF**
10 **(Preliminary and Permanent Injunction)**

11 58. SFR repeats and realleges the allegations of paragraphs 1- 57 as though fully set forth
12 herein and incorporate the same by reference.

13 59. SFR properly acquired title to the Property at the Association foreclosure sale on April 5,
14 2013.

15 60. Counter-Defendant, Gutierrez, as former title owner of the Property may claim an
16 ownership interest in the Property.

17 61. Third Party Defendant Nationstar may claim that it maintained an interest in the Property
18 through the First Deed of Trust which was extinguished by the Association foreclosure sale.

19 62. Third Party Defendant Countrywide may claim that it maintained an interest in the
20 Property through the Second Deed of Trust which was extinguished by the Association
21 foreclosure sale.

22 63. A foreclosure sale based on the First or Second Deeds of Trust is invalid as Counter-
23 Defendant and Third Party Defendants lost their interest in the Property, if any, at the
24 Association foreclosure sale.

25 64. Any sale or transfer of title to the Property by Counter-Defendant and Third Party
26 Defendants would be invalid because their interest in the Property, if any, was extinguished by
27 the Association foreclosure sale.

28 65. Any attempt to take or maintain possession of the Property by Counter-Defendant and

1 Third Party Defendants would be invalid because their interest in the Property, if any, was
2 extinguished by the Association foreclosure sale.

3 66. Any attempt to sell, transfer, encumber or otherwise convey the Property by the Counter-
4 Defendant and Third Party Defendants would be invalid because their interest in the Property, if
5 any, was extinguished by the Association foreclosure sale.

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

8 68. SFR is entitled to a preliminary injunction and permanent injunction prohibiting Counter-
9 Defendant and Third Party Defendants from beginning or continuing any eviction proceedings
10 that would affect SFR's possession of the Property.

11 69. SFR is entitled to a preliminary injunction and permanent injunction prohibiting Counter-
12 Defendant and Third Party Defendants from any sale or transfer that would affect the title to the
13 Property.

14 **VI. PRAYER FOR RELIEF**

15 SFR requests judgment against Counter-Defendant and Third Party Defendants as
16 follows:

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

20 2. For a preliminary and permanent injunction that Counter-Defendant and
21 Third Party Defendants are prohibited from initiating or continuing foreclosure
22 proceedings, and from selling or transferring the Property;

23 3. For general and special damages in excess of \$10,000.00

24 4. For an award of attorney's fees and costs of suit; and

25 ///

26 ///

27 ///

28 ///

5. For any further relief that the Court may deem just and proper.

DATED August 1st, 2013.

HOWARD KIM & ASSOCIATES

/s/ Victoria L. Hightower
Howard C. Kim, Esq.
Nevada Bar No. 10386
Diana S. Cline, Esq.
Nevada Bar No. 10580
Victoria L. Hightower, Esq.
Nevada Bar No. 10897
400 N. Stephanie St., Suite 160
Henderson, Nevada 89014
Attorneys for SFR Investments Pool 1, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of August, 2013, pursuant to NRCP 5(b), I served the following parties listed below by depositing via U.S. mail first class a true and correct copy of the foregoing **Answer, Counterclaim and Third Party Complaint for Quiet Title and Injunctive Relief**, filed on August 1, 2013, postage prepaid and addressed to:

P. Sterling Kerr, Esq.
LAW OFFICES OF P. STERLING KERR
2450 St. Rose Parkway, Suite 120
Henderson, NV 89074
Attorneys for Ignacio Gutierrez

/s/ Andrew M. David
An employee of Howard Kim & Associates

IAFD

HOWARD C. KIM, ESQ.

Nevada Bar No. 10386

E-mail: howard@hkimlaw.com

DIANA S. CLINE, ESQ.

Nevada Bar No. 10580

E-mail: diana@hkimlaw.com

VICTORIA L. HIGHTOWER, ESQ.

Nevada Bar No. 10897

E-mail: victoria@hkimlaw.com

HOWARD KIM & ASSOCIATES

400 N. Stephanie St, Suite 160

Henderson, Nevada 89014

Telephone: (702) 485-3300

Facsimile: (702) 485-3301

Attorneys for SFR INVESTMENTS POOL 1, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC;
NEVADA ASSOCIATION SERVICES INC.,
HORIZON HEIGHTS HOMEOWNERS
ASSOCIATION, KB HOME MORTGAGE
COMPANY, a foreign corporation, DOE
Individuals I through X; ROE Corporations
and Organizations I through X;

Defendants.

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

Counter-Claimant and Third Party Plaintiff,

vs.

IGNACIO GUTIERREZ, an individual;
NATIONSTAR MORTGAGE, LLC., a
Delaware limited liability company;
COUNTRYWIDE HOME LOANS, INC., a
foreign corporation; DOES I-X; and ROES 1-
10, inclusive,

Case No. A-13-684715-C

Dept. No. XVII

**INITIAL APPEARANCE FEE
DISCLOSURE (NRS CHAPTER 19)**

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Counter-Defendant/ Third Party Defendants.

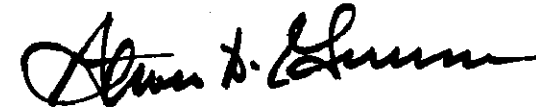
Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for parties appearing in the above-entitled action as indicated below:

| | |
|-----------------------------|-----------------|
| SFR INVESTMENTS POOL 1, LLC | \$358.00 |
| TOTAL | \$358.00 |

DATED August 2nd, 2013.

HOWARD KIM & ASSOCIATES

/s/ Victoria L. Hightower
Howard C. Kim, Esq.
Nevada Bar No. 10386
Diana S. Cline, Esq.
Nevada Bar No. 10580
Victoria L. Hightower, Esq.
Nevada Bar No. 10897
400 N. Stephanie St., Suite 160
Henderson, Nevada 89014
Attorneys for SFR Investments Pool 1, LLC



CLERK OF THE COURT

Richard Vilkin, Esq.
Nevada Bar No. 8301
Law Offices of Richard Vilkin, P.C.
1286 Crimson Sage Ave.
Henderson, NV 89012
Phone: (702) 476-3211
Fax: (702) 476-3212
Email: Richard@vilkinlaw.com
Attorneys for defendant and counterclaimant
Nevada Association Services, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Plaintiff,

v.

SFR INVESTMETNS POOL I, LLC;
NEVADA ASSOCIATION SERVICES, INC.,
HORIZON HEIGHTS HOMEOWNERS
ASSOCIATION, KB HOME MORTGAGE
COMPANY, a foreign corporation, DOE
Individuals I through X; ROE Corporations
and Organizations I through X,

Defendants.

Case No.: A-13-684715-C

Dept.: XVII

ANSWER OF DEFENDANT NEVADA
ASSOCIATION SERVICES, INC. AND
COUNTERCLAIM

COMES NOW defendant NEVADA ASSOCIATION SERVICES, INC. ("NAS"), and
responds to the Complaint of plaintiff as follows :

1. Answering paragraphs 8, 9, 15, 18, 19, 20, 21, 23, 24-29 and 31-36 of the
Complaint, this answering defendant denies the factual allegations therein alleged.
2. Answering paragraphs 1, 2, 4, 5, 6, 10, 14 and 16, 17 of the Complaint, this
answering defendant is without sufficient knowledge or information to form a belief as to the
truth or falsity of the allegations contained therein, or as contained therein against parties other

1 than NAS, or finds said statements and allegations to be vague and ambiguous, and, on that
2 basis, denies said allegations.

3 3. Answering paragraphs 7, 22 and 30 of the Complaint, this answering defendant
4 repeats its responses as stated herein to each of the paragraphs of the Complaint realleged by
5 plaintiff in paragraphs 7, 22 and 30.
6

7 4. Answering paragraphs 3, 11 and 13 of the Complaint, this answering defendant
8 admits said allegations.
9

10 FIRST AFFIRMATIVE DEFENSE

11 Plaintiffs have failed to state any cause of action upon which relief can be granted.
12
13

14 SECOND AFFIRMATIVE DEFENSE

15 The recovery sought is barred by the doctrines of waiver, unclean hands, laches and
16 failure to do equity.
17
18

19 THIRD AFFIRMATIVE DEFENSE

20 Plaintiff was more than 50 percent negligent in and about the acts complained of in her
21 Complaint and therefore is barred from recovery pursuant to NRS 41.141.
22
23

24 FOURTH AFFIRMATIVE DEFENSE

25 Plaintiff was negligent in and about the acts complained of in her Complaint and
26 therefore her claims are subject to the rules and law in Nevada governing comparative
27 negligence.
28

1 FIFTH AFFIRMATIVE DEFENSE

2 Plaintiff should be estopped from making her claims due to her own dishonesty, illegal
3 conduct, lack of good faith and fraud.

4
5 SIXTH AFFIRMATIVE DEFENSE

6
7 The acts complained of by plaintiff, if wrongful, were committed by parties other than
8 NAS.

9
10 SEVENTH AFFIRMATIVE DEFENSE

11 Plaintiff failed to mitigate her damages.
12

13
14 EIGHTH AFFIRMATIVE DEFENSE

15 Plaintiff failed to pay her homeowner assessments and other charges as required by her
16 governing documents.
17

18
19 NINTH AFFIRMATIVE DEFENSE

20 This answering defendant complied with all notice and other requirements for a non-
21 judicial foreclosure as required by NRS 116, NRS 107 and other Nevada law.
22

23
24 TENTH AFFIRMATIVE DEFENSE

25
26 Defendant NAS is entitled to recover in this action all of its costs, fees, attorneys fees and
27 other collection costs from plaintiff as per NRS 116.31164(c)(2), NAC 116.470, other Nevada
28 law, and the Covenants, Conditions and Restrictions ("CC&Rs") governing said property.

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ELEVENTH AFFIRMATIVE DEFENSE

Pursuant to N.R.C.P. 11, all possible affirmative defenses may not have been alleged in this Answer insofar as sufficient facts were not available after reasonable inquiry prior to it being filed, and therefore, defendant hereby reserve the right to amend this Answer to allege additional affirmative defenses if subsequent investigation so warrants.

COUNTERCLAIM

BREACH OF CONTRACT AND FAILURE TO PAY ACCOUNT STATED

1. The contents of plaintiff's Complaint, paragraph 1, is reiterated herein on information and belief.
2. NAS was, at all times relevant herein, acting as a collection agent for a homeowner's association of which plaintiff was a member.
3. Plaintiff failed to pay his HOA assessments and the fees and charges incurred by NAS per plaintiff's agreements with his homeowner's association through their CC&Rs and other governing documents and Nevada law.
4. Per plaintiff's agreements and the CC&Rs with the HOA and Nevada law, NAS is entitled to be paid such fees and charges. In addition, NAS is entitled to be paid its attorneys fees and costs in prosecuting and defending this action pursuant to NRS 116.31164(c)(2), NAC 116.470 and other Nevada law.

PRAYER

WHEREFORE, defendant and counterclaimant NAS prays for Judgment against plaintiff and counterdefendant as follows:

1. That plaintiff receive nothing and his Complaint be dismissed with prejudice;

- 1 2. That NAS recover the fees, costs, attorneys fees and other charges it incurred because
2 of plaintiffs' failure to abide by his agreements and CC&Rs with the homeowners
3 association herein and pursuant to NRS 116.31164(c)(2), NAC 116.470 and other
4 Nevada law;
5
6 3. That NAS recover its attorneys fees and costs in defending this action; and
7
8 4. For such other and further relief as the court deems just and proper.

9 Date: August 12, 2013

LAW OFFICES OF RICHARD VILKIN, P.C.

10 By: _____

11 Richard Vilkin

12 Nevada Bar No. 8301

13 1286 Crimson Sage Ave.

14 Henderson, NV 89012

15 Phone: (702) 476-3211

16 Attorneys for defendant and counterclaimant
17 Nevada Association Services, Inc.
18
19
20
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Richard Vilkin, Esq.
Nevada Bar No. 8301
Law Offices of Richard Vilkin, P.C.
1286 Crimson Sage Ave.
Henderson, NV 89012
Phone: (702) 476-3211
Fax: (702) 476-3212
Email: Richard@vilkinlaw.com
Attorneys for defendant and counterclaimant
Nevada Association Services, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Plaintiff,

Case No.: A-13-684715-C

Dept.: XVII

v.

INITIAL APPEARANCE FEE DISCLOSURE
BY DEFENDANT NEVADA
ASSOCIATION SERVICES, INC.

SFR INVESTMETNS POOL I, LLC;
NEVADA ASSOCIATION SERVICES, INC.,
HORIZON HEIGHTS HOMEOWNERS
ASSOCIATION, KB HOME MORTGAGE
COMPANY, a foreign corporation, DOE
Individuals I through X; ROE Corporations
and Organizations I through X,

Defendants.

COMES NOW defendant Nevada Association Services, Inc., a Nevada corporation, and
provides its Initial Appearance Fee Disclosure as follows:

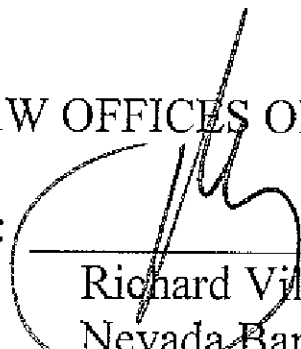
Plaintiff Nevada Association Services, Inc.: \$223.00

Total: \$223.00

Date: August 12, 2013

LAW OFFICES OF RICHARD VILKIN, P.C.

By:


Richard Vilkin

Nevada Bar No. 8301

1286 Crimson Sage Ave.

Henderson, NV 89012

Phone: (702) 476-3211

Attorneys for defendant and counterclaimant
Nevada Association Services, Inc.

Certificate of Mailing

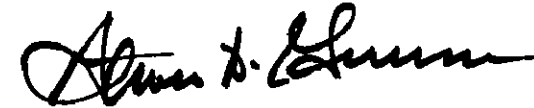
I hereby certify that on August 12, 2013, I put copies of the ANSWER OF
DEFENDANT NEVADA ASSOCIATION SERVICES, INC. AND COUNTERCLAIM (with
Initial Appearance Fee Disclosure attached) in sealed envelopes, postage prepaid, and deposited
said envelopes in the U.S. Mail, addressed as follows, to counsel in the case of *Ignacio Gutierrez*
v. SFR Investments Pool I, LLC et al. (Nev. Dist. Ct. Case No. A-13-684715-C):

P. Sterling Kerr, Esq.
Law Offices of P. Sterling Kerr
2450 St. Rose Parkway, Suite 120
Henderson, NV 89074

Executed this 12th day of August, 2013 at Henderson, NV. I declare under penalty of
perjury under the laws of the State of Nevada that the foregoing is true and correct.



Richard Vilkin



CLERK OF THE COURT

Richard Vilkin, Esq.
Nevada Bar No. 8301
Law Offices of Richard Vilkin, P.C.
1286 Crimson Sage Ave.
Henderson, NV 89012
Phone: (702) 476-3211
Fax: (702) 476-3212
Email: Richard@vilkinlaw.com
Attorneys for defendant and counterclaimant
Nevada Association Services, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Plaintiff,

v.

SFR INVESTMETNS POOL I, LLC;
NEVADA ASSOCIATION SERVICES, INC.,
HORIZON HEIGHTS HOMEOWNERS
ASSOCIATION, KB HOME MORTGAGE
COMPANY, a foreign corporation, DOE
Individuals I through X; ROE Corporations
and Organizations I through X,

Defendants.

Case No.: A-13-684715-C

Dept.: XVII

ORDER GRANTING MOTION BY
DEFENDANTS NEVADA ASSOCIATION
SERVICES, INC. AND HORIZON HEIGHTS
HOMEOWNERS ASSOCIATION TO
DISMISS PLAINTIFF'S COMPLAINT

On January 8, 2014, a hearing was held in this court on defendant Nevada Association Services, Inc. ("NAS"), and joined in by defendant Horizon Heights Homeowners Association ("Horizon HOA"), to dismiss plaintiff's Complaint for failure to submit this case to alternative dispute resolution before the Nevada Real Estate Division, pursuant to NRS 38.300 et seq. Richard Vilkin, Esq. appeared on behalf of moving party and defendant NAS. There were no other appearances.

The court, having considered the motion papers, the representation by Mr. Vilkin that he had spoken to plaintiff's counsel Preston S. Kerr who confirmed that plaintiff was not opposing

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1 the motion, and good cause appearing, granted the motion and the joinder thereto. IT IS
2 THEREFORE ORDERED that plaintiff's Complaint is dismissed without prejudice as to
3 defendants Nevada Association Services, Inc. and Horizon Heights Homeowners Association.

4 The court granted NAS' motion for attorneys fees and costs against plaintiff in the
5 amount of \$1,650.56 pursuant to NAC 116.470(4) and Judgment is hereby given against plaintiff
6 Ignacio Gutierrez and in favor of defendant Nevada Association Services, Inc. in the amount of
7 \$1,650.56.
8

9 IT IS SO ORDERED.

10 Dated: Feb 6, 2014


District Court Judge 

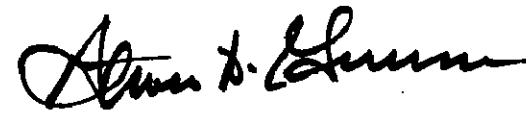
12 Respectfully submitted,

13 LAW OFFICES OF RICHARD VILKIN, P.C.

15 By: 

16 Richard Vilkin, Esq.
17 Nevada Bar No. 8301
18 1286 Crimson Sage Ave.
19 Henderson, NV 89012
20 *Attorneys for defendant and counterclaimant*
21 *NAS*
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CLERK OF THE COURT

Richard Vilkin, Esq.
Nevada Bar No. 8301
Law Offices of Richard Vilkin, P.C.
1286 Crimson Sage Ave.
Henderson, NV 89012
Phone: (702) 476-3211
Fax: (702) 476-3212
Email: Richard@vilkinlaw.com
Attorneys for defendant and counterclaimant
Nevada Association Services, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Plaintiff,

Case No.: A-13-684715-C

Dept.: XVII

v.

NOTICE OF ENTRY OF ORDER

SFR INVESTMETNS POOL I, LLC;
NEVADA ASSOCIATION SERVICES, INC.,
HORIZON HEIGHTS HOMEOWNERS
ASSOCIATION, KB HOME MORTGAGE
COMPANY, a foreign corporation, DOE
Individuals I through X; ROE Corporations
and Organizations I through X,

Defendants.

TO ALL PARTIES AND ATTORNEYS: PLEASE TAKE NOTICE that the court
signed the "Order Granting Motion By Defendants Nevada Association Services, Inc. and
Horizon Heights Homeowners Association To Dismiss Plaintiff's Complaint" on February 6,
2014 and that said Order was filed February 14, 2014. A conformed copy of said signed and

///

///

///

///

1 filed Order is attached.

2 Date: February 15, 2014

LAW OFFICES OF RICHARD VILKIN, P.C.

3
4 By: 

5 Richard Vilkin

6 Nevada Bar No. 8301

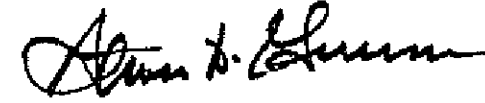
7 1286 Crimson Sage Ave.

8 Henderson, NV 89012

9 Phone: (702) 476-3211

10 *Attorneys for defendant and counterclaimant*

11 *Nevada Association Services, Inc.*



CLERK OF THE COURT

Richard Vilkin, Esq.
Nevada Bar No. 8301
Law Offices of Richard Vilkin, P.C.
1286 Crimson Sage Ave.
Henderson, NV 89012
Phone: (702) 476-3211
Fax: (702) 476-3212
Email: Richard@vilkinlaw.com
Attorneys for defendant and counterclaimant
Nevada Association Services, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Plaintiff,

Case No.: A-13-684715-C

Dept.: XVII

v.

SFR INVESTMETNS POOL I, LLC;
NEVADA ASSOCIATION SERVICES, INC.,
HORIZON HEIGHTS HOMEOWNERS
ASSOCIATION, KB HOME MORTGAGE
COMPANY, a foreign corporation, DOE
Individuals I through X; ROE Corporations
and Organizations I through X,

ORDER GRANTING MOTION BY
DEFENDANTS NEVADA ASSOCIATION
SERVICES, INC. AND HORIZON HEIGHTS
HOMEOWNERS ASSOCIATION TO
DISMISS PLAINTIFF'S COMPLAINT

Defendants.

On January 8, 2014, a hearing was held in this court on defendant Nevada Association Services, Inc. ("NAS"), and joined in by defendant Horizon Heights Homeowners Association ("Horizon HOA"), to dismiss plaintiff's Complaint for failure to submit this case to alternative dispute resolution before the Nevada Real Estate Division, pursuant to NRS 38.300 et seq. Richard Vilkin, Esq. appeared on behalf of moving party and defendant NAS. There were no other appearances.

The court, having considered the motion papers, the representation by Mr. Vilkin that he had spoken to plaintiff's counsel Preston S. Kerr who confirmed that plaintiff was not opposing

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FEB - 4 2014

1 the motion, and good cause appearing, granted the motion and the joinder thereto. IT IS
2 THEREFORE ORDERED that plaintiff's Complaint is dismissed without prejudice as to
3 defendants Nevada Association Services, Inc. and Horizon Heights Homeowners Association.

4 The court granted NAS' motion for attorneys fees and costs against plaintiff in the
5 amount of \$1,650.56 pursuant to NAC 116.470(4) and Judgment is hereby given against plaintiff
6 Ignacio Gutierrez and in favor of defendant Nevada Association Services, Inc. in the amount of
7 \$1,650.56.
8

9 IT IS SO ORDERED.

10 Dated: Feb 6, 2014


District Court Judge 

11 Respectfully submitted,

12 LAW OFFICES OF RICHARD VILKIN, P.C.
13

14 By: 
15

16 Richard Wilkin, Esq.

17 Nevada Bar No. 8301

18 1286 Crimson Sage Ave.

19 Henderson, NV 89012

20 Attorneys for defendant and counterclaimant

21 NAS
22
23
24
25
26
27
28

Certificate of Mailing

I hereby certify that on February 15, 2014, I put copies of the NOTICE OF ENTRY OF ORDER in sealed envelopes, postage prepaid, and deposited said envelopes in the U.S. Mail, addressed as follows, to counsel in the case of *Ignacio Gutierrez v. SFR Investments Pool I, LLC et al.* (Nev. Dist. Ct. Case No. A-13-684715-C):

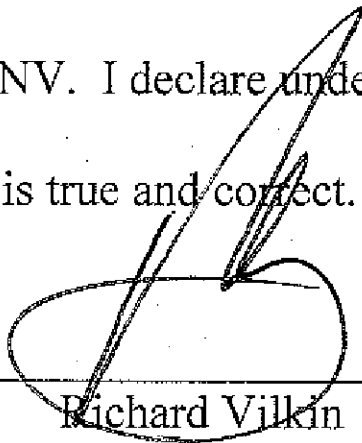
P. Sterling Kerr, Esq.
Law Offices of P. Sterling Kerr
2450 St. Rose Parkway, Suite 120
Henderson, NV 89074

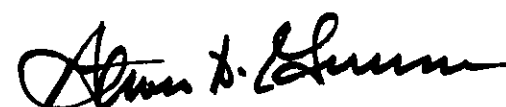
Diana S. Cline, Esq.
Howard Kim & Associates
1055 Whitney Ranch Drive, Suite 110
Henderson, NV 89014

Anthony Ashby
The Law Office of David M. Jones
7455 Arroyo Crossing Parkway, Suite 200
Las Vegas, NV 89113

Ariel E. Stern, Esq.
Akerman, LLP
1160 Town Center Drive, Suite 330
Las Vegas, NV 89144

Executed this 15th day of February, 2014 at Henderson, NV. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.


Richard Vilkin



CLERK OF THE COURT

SAO

HOWARD C. KIM, ESQ.
Nevada Bar No. 10386
E-mail: howard@hkimlaw.com
DIANA S. CLINE, ESQ.
Nevada Bar No. 10580
E-mail: diana@hkimlaw.com
JACQUELINE A. GILBERT, ESQ.
Nevada Bar No. 10593
E-mail: jackie@hkimlaw.com
HOWARD KIM & ASSOCIATES
1055 Whitney Ranch Drive, Suite 110
Henderson, Nevada 89014
Telephone: (702) 485-3300
Facsimile: (702) 485-3301
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Plaintiff,

Case No. A-13-684715-C

Dept. No. XVII

vs.

SFR INVESTMENTS POOL 1, LLC;
NEVADA ASSOCIATION SERVICES, INC.;
HORIZON HEIGHTS HOMEOWNERS
ASSOCIATION; KB HOME MORTGAGE
COMPANY, a foreign corporation, DOE
Individuals I through X, ROE Corporations and
Organizations I through X,

**STIPULATION AND ORDER
DISMISSING IGNACIO GUTIERREZ
WITHOUT PREJUDICE**

Defendants.

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

Counter-Claimant and Third Party Plaintiff,

vs.

IGNACIO GUTIERREZ, an individual;
NATIONSTAR MORTGAGE, LLC, a
Delaware limited liability company; DOES I-
X; and ROES 1-10, inclusive,

Counter-Defendant/ Third Party

Defendants.

Plaintiff Ignacio Gutierrez ("Gutierrez") stipulates and agrees that any ownership

HOWARD KIM & ASSOCIATES

1055 WHITNEY RANCH DRIVE, SUITE 110

HENDERSON, NEVADA 89014

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

| | | |
|---|--|---|
| <input type="checkbox"/> Voluntary Dis | <input checked="" type="checkbox"/> Slip Dis | <input type="checkbox"/> Sum Jdgmt |
| <input type="checkbox"/> Involuntary (stat) Dis | <input type="checkbox"/> Slip Jdgmt | <input type="checkbox"/> Non-Jury Trial |
| <input type="checkbox"/> Jdgmt on Arb Award | <input type="checkbox"/> Default Jdgmt | <input type="checkbox"/> Jury Trial |
| <input type="checkbox"/> Mtn to Dis (by deft) | <input type="checkbox"/> Transferred | |

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interest he may have had in the real property commonly known as **668 Moonlight Stroll Street, Henderson, NV 89002; Parcel No. 179-31-714-046** (the "Property") was extinguished on April 5, 2013, by the foreclosure sale conducted by Nevada Association Services, Inc., agent Horizon Heights. Plaintiff Gutierrez further stipulates and agrees that he will not contest the validity of the foreclosure deed recorded in the Official Records of the Clark County Recorder as Instrument Number 2013040080001086, or any subsequent transactions, including Defendant SFR Investments Pool 1, LLC ("SFR") ownership interest in the Property.

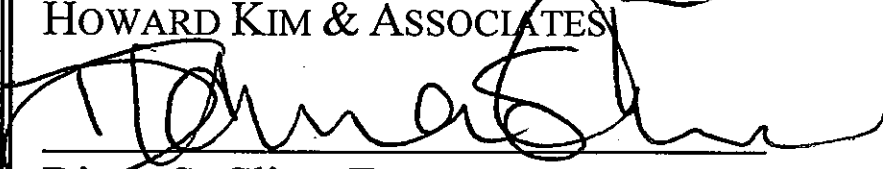
Based on these representations, Plaintiff Gutierrez and Defendant SFR stipulate and agree that Gutierrez shall be dismissed from SFR's action and cross-action, without prejudice, each party to bear its own fees and costs. It is further stipulated and agreed that SFR be dismissed from Plaintiff Gutierrez's action, without prejudice, each party to bear its own fees and costs.

DATED this 5 day of May, 2014.

DATED this ____ day of _____, 2014.

HOWARD KIM & ASSOCIATES

LAW OFFICES OF P. STERLING KERR


Diana S. Cline, Esq.


P. Sterling Kerr, Esq.

Nevada Bar No. 10580

Nevada Bar No. 3978

1055 Whitney Ranch Drive, Suite 110

2450 St. Rose Parkway, Suite 120

Henderson, Nevada 89014

Henderson, Nevada 89074

Phone: (702) 485-3300

Attorney for Ignacio Gutierrez

Fax: (702) 485-3301

Attorneys for Plaintiff

HOWARD KIM & ASSOCIATES

1055 WHITNEY RANCH DRIVE, SUITE 110

HENDERSON, NEVADA 89014

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

ORDER

IT IS SO ORDERED.

Dated this 6 day of May, 2014.


DISTRICT COURT JUDGE

Respectfully Submitted by:

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

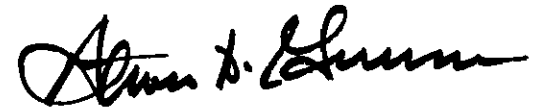
1055 Whitney Ranch Drive, Suite 110

Henderson, Nevada 89014

Phone: (702) 485-3300

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Attorneys for SFR Investments Pool 1, LLC



CLERK OF THE COURT

NTSO

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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL1, LLC a Nevada
limited liability company,

Plaintiff,

SFR INVESTMENTS POOL 1, LLC;
NEVADA ASSOCIATION SERVICES INC.,
HORIZON HEIGHTS HOMEOWNERS
ASSOCIATION, KB HOME MORTGAGE
COMPANY, a foreign corporation, DOE
Individuals I through X; ROE Corporations
and Organizations I through X,

Defendants.

Case No. A-13-684715-C

Dept. No. XVII

**NOTICE OF ENTRY OF STIPULATION
AND ORDER**

PLEASE TAKE NOTICE that a **STIPULATION AND ORDER DISMISSING
IGNACIO GUTIERREZ WITHOUT PREJUDICE** was entered by this Court on May 9,
2014. A copy of said order is attached hereto.

DATED May 12, 2014.

HOWARD KIM & ASSOCIATES

/s/ Diana S. Cline
Howard C. Kim, Esq.
Nevada Bar No. 10386
Diana S. Cline, Esq.
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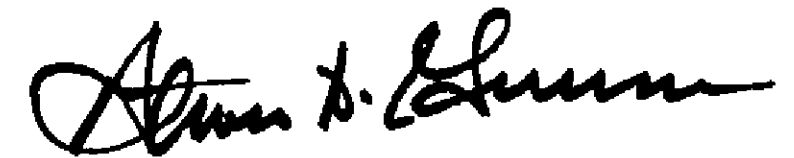
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of May, pursuant to NRCP 5(b), I served the
NOTICE OF ENTRY OF ORDER filed May 12, 2014, via first class mail, postage prepaid, to
the following parties:

Preston S. Kerr, Esq..
LAW OFFICES OF P. STERLING KERR
2450 St. Rose Pkwy., Suite 120
Henderson, NV 89074
Attorney for Ignacio Gutierrez

Richard J. Vilkin, Esq..
THE LAW OFFICES OF RICHARD J. VILKIN, P.C.
1286 Crimson Sage Ave.
Henderson, NV 89012
Attorney for Nevada Association Services, Inc.

/s/ Tommie Dooley
AN EMPLOYEE OF HOWARD KIM & ASSOCIATES



CLERK OF THE COURT

SAO

HOWARD C. KIM, ESQ.
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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Plaintiff,

Case No. A-13-684715-C

Dept. No. XVII

vs.

SFR INVESTMENTS POOL 1, LLC;
NEVADA ASSOCIATION SERVICES, INC.;
HORIZON HEIGHTS HOMEOWNERS
ASSOCIATION; KB HOME MORTGAGE
COMPANY, a foreign corporation, DOE
Individuals I through X, ROE Corporations and
Organizations I through X,

**STIPULATION AND ORDER
DISMISSING IGNACIO GUTIERREZ
WITHOUT PREJUDICE**

Defendants.

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

Counter-Claimant and Third Party Plaintiff,

vs.

IGNACIO GUTIERREZ, an individual;
NATIONSTAR MORTGAGE, LLC, a
Delaware limited liability company; DOES I-
X; and ROES 1-10, inclusive,

Counter-Defendant/ Third Party

Defendants.

Plaintiff Ignacio Gutierrez ("Gutierrez") stipulates and agrees that any ownership

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HENDERSON, NEVADA 89014

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| | | |
|---|--|---|
| <input type="checkbox"/> Voluntary Dis | <input checked="" type="checkbox"/> Slip Dis | <input type="checkbox"/> Sum Jdgmt |
| <input type="checkbox"/> Involuntary (stat) Dis | <input type="checkbox"/> Slip Jdgmt | <input type="checkbox"/> Non-Jury Trial |
| <input type="checkbox"/> Jdgmt on Arb Award | <input type="checkbox"/> Default Jdgmt | <input type="checkbox"/> Jury Trial |
| <input type="checkbox"/> Mtn to Dis (by deft) | <input type="checkbox"/> Transferred | |

RECEIVED BY
DEPT 17 ON
MAY - 6 2014

interest he may have had in the real property commonly known as **668 Moonlight Stroll Street, Henderson, NV 89002; Parcel No. 179-31-714-046** (the "Property") was extinguished on April 5, 2013, by the foreclosure sale conducted by Nevada Association Services, Inc., agent Horizon Heights. Plaintiff Gutierrez further stipulates and agrees that he will not contest the validity of the foreclosure deed recorded in the Official Records of the Clark County Recorder as Instrument Number 2013040080001086, or any subsequent transactions, including Defendant SFR Investments Pool 1, LLC ("SFR") ownership interest in the Property.

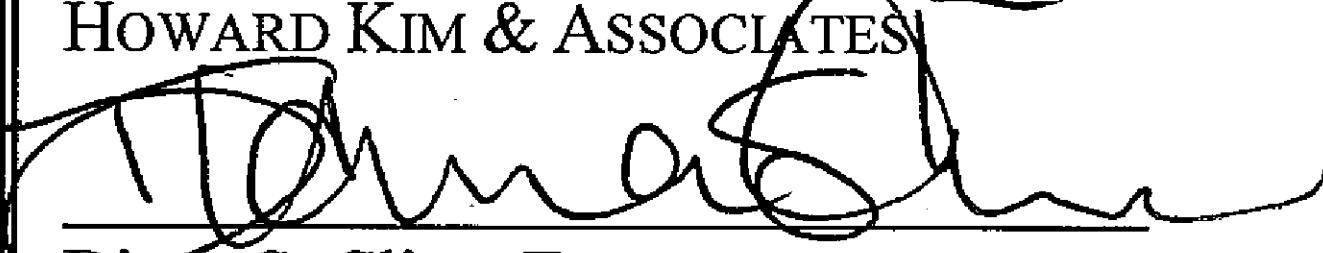
Based on these representations, Plaintiff Gutierrez and Defendant SFR stipulate and agree that Gutierrez shall be dismissed from SFR's action and cross-action, without prejudice, each party to bear its own fees and costs. It is further stipulated and agreed that SFR be dismissed from Plaintiff Gutierrez's action, without prejudice, each party to bear its own fees and costs.

DATED this 5 day of May, 2014.

DATED this ____ day of _____, 2014.

HOWARD KIM & ASSOCIATES

LAW OFFICES OF P. STERLING KERR


Diana S. Cline, Esq.


P. Sterling Kerr, Esq.

Nevada Bar No. 10580

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HOWARD KIM & ASSOCIATES

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

ORDER

IT IS SO ORDERED.

Dated this 6 day of May, 2014.


DISTRICT COURT JUDGE

Respectfully Submitted by:

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

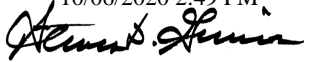
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CLERK OF THE COURT

OGSJ

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Attorneys for Nationstar Mortgage LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC; NEVADA
ASSOCIATION SERVICES, INC.; HORIZON
HEIGHTS HOMEOWNERS ASSOCIATION;
KB HOME MORTGAGE COMPANY, a foreign
corporation; DOE Individuals I through X; ROE
Corporations and Organizations I through X,

Defendants.

SFR INVESTMENTS POOL 1, LLC, Nevada
Limited Liability Company,

Counter-Claimant and Third Party Plaintiff,

vs.

IGNACIO GUTIERREZ, an individual;
NATIONSTAR MORTGAGE, LLC, a Delaware
limited liability company; COUNTRYWIDE
HOME LOANS, INC., a foreign corporation;
DOES I through X; and ROES 1-10, inclusive,

Counter-Defendant and Third Party Defendants.

Case No.: A-13-684715-C

Dept.: XVIII

**[PROPOSED] ORDER GRANTING
NATIONSTAR MORTGAGE LLC'S
MOTION FOR SUMMARY JUDGMENT
AND DENYING SFR'S MOTION TO
STRIKE**

On August 26, 2020, Nationstar Mortgage LLC's (**Nationstar**) motion for summary judgment and SFR Investments Pool 1, LLC's (**SFR**) opposition thereto and renewed countermotion to strike came for hearing before the Court. Melanie D. Morgan, Esq. of Akerman LLP appeared on behalf of

1 Nationstar and Diana Ebron, Esq. of Kim Gilbert Ebron, appeared on behalf of SFR. No appearances
2 were made on behalf of plaintiff or Nevada Association Services, Inc. (**NAS**).

3 Having heard the oral arguments presented by Nationstar and SFR, and having read and
4 considered all briefs, the Court makes the following Findings of Fact, Conclusions of Law and
5 Judgment.

6 **FINDINGS OF FACT**

7 1. A Deed of Trust listing Ignacio Gutierrez as the borrower (**Borrower**); KB Home
8 Mortgage Company (**KB Home**) as the lender (**Lender**); and Mortgage Electronic Registration
9 System (**MERS**), as beneficiary solely as nominee for Lender and Lender's successors and assigns,
10 was executed on July 6, 2005, and recorded on July 20, 2005. The Deed of Trust granted Lender a
11 security interest in real property known as 668 Moonlight Stroll Street, Henderson, NV 89015 (the
12 **Property**) to secure the repayment of a loan in the original amount of \$271,638.00 made to the
13 Borrowers. *Id.* The Note and Deed of Trust are collectively referred to as the **Loan**.

14 2. Freddie Mac purchased the Loan and thereby obtained a property interest in the Deed
15 of Trust on or about August 22, 2005. Freddie Mac maintained that ownership at the time of the HOA
16 Sale (as defined below) on April 5, 2013.

17 3. In July 2008, Congress passed the Housing and Economic Recovery Act of 2008
18 (**HERA**), Pub. L. No. 110-289, 122 Stat. 2654, codified at 12 U.S.C. § 4511 *et seq.*, which established
19 the Federal Housing Finance Agency (**FHFA**) to regulate Freddie Mac, the Federal National Mortgage
20 Association, and the Federal Home Loan Banks.

21 4. On September 6, 2008, FHFA's Director placed Freddie Mac into conservatorship.

22 5. On April 23, 2012, MERS, as nominee for Lender and Lenders successors and assigns,
23 recorded an assignment of the Deed of Trust to Bank of America, N.A.

24 6. On November 28, 2012, Bank of America, N.A. recorded an assignment of the Deed
25 of Trust to Nationstar.

26 7. At the time of the HOA Sale on April 5, 2013, Nationstar was the servicer of the Loan
27 for Freddie Mac.

1 8. The relationship between Nationstar, as the servicer of the Loan, and Freddie Mac, as
2 owner of the Loan, is governed by the Freddie Mac Single-Family Seller/Servicer Guide (the **Guide**),
3 a central governing document for Freddie Mac's relationship with servicers nationwide. Among other
4 things, the Guide provides that Freddie Mac's servicers may act as record beneficiaries for the deeds
5 of trust owned by Freddie Mac and requires that servicers assign these deeds of trust to Freddie Mac
6 upon Freddie Mac's demand. Guide at 1101.2(a).

7 9. The Guide provides:

8 For each Mortgage purchased by Freddie Mac, the Seller and the Servicer
9 agree that Freddie Mac may, at any time and without limitation, require the
10 Seller or the Servicer, at the Seller's or the Servicer's expense, to make such
endorsements to and assignments and recordings of any of the Mortgage
documents so as to reflect the interests of Freddie Mac.

11 Guide at 1301.10.

12 10. The Guide also provides:

13 The Seller/Servicer is not required to prepare an assignment of the Security
14 Instrument to Freddie Mac. However, *Freddie Mac may, at its sole
15 discretion and at any time, require a Seller/Servicer, at the Seller/Servicer's
expense, to prepare, execute and/or record assignments of the Security
Instrument to Freddie Mac.*

16 Guide at 6301.6 (emphasis added).

17 11. The Guide authorizes servicers to foreclose on deeds of trust on behalf of Freddie
18 Mac. *See, e.g.,* Guide at 8105.3, 9301.1, 9301.12, 9401.1.

19 12. Accordingly, the Guide also provides for a temporary transfer of possession of the note
20 when necessary for servicing, including foreclosure. *See* Guide at 8107.1, 8107.2, 9301.11. However,
21 when in "physical or constructive possession of a Note," the Servicer must "follow prudent business
22 practices" to ensure that the note is "identif[ied] as a Freddie Mac asset." *Id.* at 8107.1(b).
23 Furthermore, when transferring documents in a mortgage file, including a note, the servicer must
24 ensure the receiver acknowledges that the note is "Freddie Mac's property." Guide at 3302.5.

25 13. The Guide also includes chapters regarding how and when servicers should appear as
26 parties to litigation involving Freddie Mac loans. *See* Guide at 9402.2 ("Routine and non-routine
27
28

litigation"), 9501 ("Selection, Retention and Management of Law Firms for Freddie Mac Default Legal Matters.").

14. The Guide provides:

All documents in the Mortgage file, . . . and all other documents and records related to the Mortgage of whatever kind or description . . . will be, and will remain at all times, the property of Freddie Mac. All of these records and Mortgage data in the possession of the Servicer are retained by the Servicer in a custodial capacity only.

Guide at 1201.9.

15. The Guide provides that a transferee servicer undertakes all responsibilities under the Guide. *See* Guide at 7101.15(c).

16. Finally, the Guide provides:

When a Transfer of Servicing occurs, the Transferor Servicer may not . . . further endorse the Note, but must prepare and complete assignments . . .

To prepare and complete an assignment of a Security Instrument for a Subsequent Transfer of Servicing for a Mortgage not registered with MERS, the Transferor Servicer must . . . [a]ssign the Security Instrument to the Transferee Servicer and record the assignment.

Guide at 7101.6.

17. On July 10, 2012, the HOA recorded a Notice of Delinquent Assessment Lien.

18. On August 30, 2012, the HOA recorded a Notice of Default and Election to Sell under the Deed of Trust.

19. On February 20, 2013, the HOA recorded a Notice of Foreclosure Sale.

20. On April 5, 2013, the HOA sold the Property to SFR for \$11,000.00 (**HOA Sale**). A foreclosure deed was recorded against the Property on April 8, 2013.

21. At no time did the FHFA consent to the HOA Sale extinguishing or foreclosing Freddie Mac's interest in the Property. *See* FHFA's Statement on HOA Super-Priority Lien Foreclosures (Apr. 21, 2015), www.fhfa.gov/Media/PublicAffairs/Pages/Statement-on-HOA-Super-Priority-Lien-Foreclosures.aspx.

22. SFR's previous motion for summary judgment was granted by Senior Judge Bixler on October 21, 2015, and the order granting the same was entered on November 10, 2015. Judge Bixler's

1 decision was appealed, and the Nevada Supreme Court remanded the case back to the district court on
2 July 28, 2017. The issues on remand were whether Freddie Mac owned the loan in question at the time
3 of the HOA Sale, and whether Nationstar had a contractual relationship with Freddie Mac to service
4 the Loan.

5 23. Nationstar again moved for summary judgment, and SFR filed a summary judgment
6 motion and a motion to strike the affidavit of Dean Meyer, an employee of Freddie Mac, supporting
7 Nationstar's summary judgment motion. Although Nationstar had disclosed Freddie Mac's business
8 records evidencing its ownership of the Loan during discovery, SFR argued that because Nationstar
9 did not disclose Mr. Meyer as a witness until after the discovery period, the affidavit must be stricken.
10 Nationstar disclosed Mr. Meyer as a corporate representative in its sixth supplemental disclosures on
11 November 29, 2017 after the close of discovery.

12 24. The district court entered summary judgment in Nationstar's favor on April 11, 2018,
13 and denied SFR's motion for summary judgment. SFR appealed and the Nevada Supreme Court again
14 remanded because it could not determine from the record whether the district court's implied decision
15 not to strike Mr. Meyer's declaration was based on a determination that any delayed disclosure of Mr.
16 Meyer as a witness was substantially justified or harmless.

17 25. On remand, the parties filed supplemental briefing. After a hearing, the parties
18 stipulated to reopen discovery for 120 days from the date of entry of an order granting the stipulation,
19 with thirty days after the close of discovery to file dispositive motions.

20 26. The court order granting the stipulation was entered on March 13, 2020 , extending the
21 discovery deadline to Monday, July 13, 2020.

22 27. Following receipt of the subpoena, Freddie Mac produced Mr. Meyer for a deposition
23 on July 13, 2020.

24 28. Nationstar again moved for summary judgment on July 17, 2020. SFR opposed the
25 motion and renewed its countermotion to strike Dean Meyer's affidavit. SFR also filed a motion to
26 compel on August, 12, 2020 seeking to compel Freddie Mac to produce additional documents and
27 seeking to take an additional deposition of Freddie Mac.

CONCLUSIONS OF LAW

1. Summary judgment is appropriate when the pleadings and other evidence on file demonstrate "no genuine issue as to any material fact [remains] and the moving party is entitled to judgment as a matter of law." *See* NRCP 56(c); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). In ruling upon a motion for summary judgment, the Court must view all evidence and inferences in the light most favorable to the non-moving party. *See Torrealba v. Kesmetis*, 124 Nev. 95, 178 P.3d 716 (2008). To rebut a motion for summary judgment, the nonmoving party must present some specific facts to demonstrate that a genuine issue of material fact exists. *Forouzan, Inc. v. Bank of George*, 128 Nev. 896, 381 P.3d 612 (2012).

2. "While the pleadings and other evidence must be construed in the light most favorable to the nonmoving party, that party has the burden to 'do more than simply show that there is some metaphysical doubt' as to the operative facts to defeat a motion for summary judgment." *Wood*, 121 P.3d at 1031 (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio*, 475 U.S. 574, 586 (1986)). The governing law determines which "factual disputes are material and will preclude summary judgment; other factual disputes are irrelevant." *Id.*

Late Disclosure of Dean Meyer was Harmless

3. The Court finds the late disclosure of Dean Meyer was harmless. The documents relied upon by Mr. Meyer in his declaration were timely disclosed. The Court reopened discovery so SFR could depose Mr. Meyer, which it did on July 13, 2020. There is no harm or prejudice to SFR based on the original late disclosure of Dean Meyer as Freddie Mac's corporate witness.

Freddie Mac Ownership / Federal Foreclosure Bar

4. The Nevada Supreme Court held in *Nationstar Mortgage, LLC v. SFR Investments Pool 1, LLC*, that in order "to have standing, 'the party seeking relief [must have] a sufficient interest in the litigation,' so as to ensure 'the litigant will vigorously and effectively present his or her case against an adverse party.'" 396 P.3d 754, 756 Nev. (2017) (citing *Schwartz v. Lopez*, 132 Nev. Adv. Op. 73, 382 P.3d 886, 894 (2016)). The Nevada Supreme Court also held that mortgage loan servicers for Freddie

1 Mac or Fannie Mae may assert the Federal Foreclosure Bar in litigation like this one, and that none of
2 FHFA, Fannie Mae, or Freddie Mac need be joined as a party. *Id.* at 758.

3 5. With regard to Nationstar's argument that NRS 116, *et seq.* (**State Foreclosure**
4 **Statute**) is preempted by 12 U.S.C. § 4617(j)(3), this Court finds that Nationstar, as servicer for
5 Freddie Mac, has an interest in the Property through its contractual servicing relationship with Freddie
6 Mac and as the beneficiary of record of the Deed of Trust. Nationstar's status as servicer of the loan
7 for Freddie Mac is evidenced by Nationstar's business records as well as Freddie Mac's business
8 records from Freddie Mac's MIDAS database, which Freddie Mac uses in its ordinary course of
9 business to manage the millions of loans it owns nationwide, as well as the testimony of Freddie Mac's
10 employee []. Thus, Nationstar may raise the preemptive effect of 12 U.S.C. § 4617(j)(3) on state law
11 in order to defend its interests and Freddie Mac's interests in the Deed of Trust.

12 6. Section 4617(j)(3) preempts the State Foreclosure Statute and, therefore, a homeowner
13 association's foreclosure of its super-priority lien cannot extinguish a property interest of Freddie Mac
14 while it is under FHFA's conservatorship unless FHFA consents to that extinguishment. *Berezovsky*
15 *v. Moniz*, 869 F.3d 923 (9th Cir. 2017).

16 7. Unless FHFA provides its consent, the federal protection shall be given full effect,
17 which includes preemption of state law. SFR bears the burden of proof to establish that FHFA
18 expressly consented to extinguish Freddie Mac's ownership interest in the Deed of Trust. Nevada has
19 a policy against requiring a party to prove a negative, such as proving a lack of consent. *Andrews v.*
20 *Harley Davidson, Inc.*, 106 Nev. 533, 539, 796 P.2d 1092, 1096-97 (1990) (even where a plaintiff
21 bears the burden of proving his or her strict liability claim, "it is unfair to force the plaintiff consumer
22 to prove a negative, i.e., that the product was not altered.")

23 8. FHFA's April 21, 2015 Statement confirms that there was no such consent here. In the
24 absence of express consent, the Court cannot imply FHFA's consent, as doing so would ignore the
25 plain text of the Federal Foreclosure Bar. *See Berezovsky*, 869 F.3d 923 (holding that FHFA's consent
26 can only be manifested affirmatively); *see also Alessi & Koenig, LLC v. Dolan, Jr.*, No. 2:15-cv-
27
28

00805-JCM-CWH, 2017 WL 773872, *3 (D. Nev. Feb. 27, 2017) (citing and relying on cases in which FHFA's statement was sufficient to show FHFA's lack of consent).

9. At the time of the HOA Sale, Freddie Mac was the owner of the Deed of Trust and Note, and its servicer, Nationstar, was the record beneficiary of the Deed of Trust. Freddie Mac's interest in the Property was established by admissible evidence, namely Freddie Mac's business records and the testimony of one of its employees. Under Nevada law, Freddie Mac had a secured property interest at the time of the HOA Sale. *See In re Montierth*, 354 P.3d 648, 651 (Nev. 2015); Restatement (Third) of Property: Mortgages § 5.4 cmt. c. In citing *Montierth* and the Nevada Supreme Court's adoption of the Restatement (Third) of Property: Mortgages, the Ninth Circuit held that a loan-owner servicer relationship "preserves the note owner's power to enforce its interest under the security instrument, because the note owner can direct the beneficiary to foreclose on its behalf." *Berezovsky*, 869 F.3d at 931. Under these circumstances, the loan owner maintains a secured property interest. *Id.*

10. Freddie Mac's interest in Property secured by the Deed of Trust was a property interest protected by 12 U.S.C. § 4617(j)(3). SFR failed to provide proof that the FHFA consented to the HOA Sale extinguishing or foreclosing Freddie Mac's interest in the Property. Accordingly, the HOA sale here did not extinguish the Deed of Trust.

11. Because the Court grants summary judgment in Nationstar's favor based upon 12 U.S.C. § 4617 (j)(3), the Court need not reach Nationstar's remaining arguments.

SRF's Motion to Compel is Moot

12. SFR moved to compel additional testimony and documents from Freddie Mac. Because the Court grants summary judgment in Nationstar's favor, and finds the late disclosure of Mr. Meyer harmless, SFR's motion to compel is moot, and is, therefore, denied.

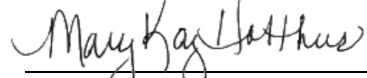
ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Nationstar's motion for summary judgment is Granted and SFR's renewed countermotion to strike, or in the alternative, countermotion for rule 56(d) relief is Denied. The Deed of Trust was not extinguished by the HOA's

foreclosure sale and continues to be a valid and enforceable lien on the Property. SFR's interest in the Property is subject to the Deed of Trust.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that SFR's motion to compel is Denied.

Dated this 6th day of October, 2020



DISTRICT COURT JUDGE

Case No: A-13-684715-C

9E8 D55 6AD8 C082

Mary Kay Holthus
District Court Judge

Submitted by:

/s/ Melanie D. Morgan

Melanie D. Morgan, Esq.

Nevada Bar No. 8215

Donna M. Wittig, Esq.

Nevada Bar No. 11015

1635 Village Center Circle, Suite 200

Las Vegas, Nevada 89134

Attorneys for Nationstar Mortgage LLC

Approved as to form and content by:

/s/ Diana S. Ebron

Diana S. Ebron, Esq.

Nevada Bar No. 10580

KIM GILBERT EBRON

7625 Dean Martin Drive, Suite 200

Las Vegas, Nevada 89139

Attorneys for SFR Investments Pools 1, LLC

Llarena, Carla (LAA-Las)

From: Diana Ebron <diana@kgelegal.com>
Sent: Tuesday, September 29, 2020 5:00 PM
To: Morgan, Melanie (Ptnr-Las)
Cc: de715b910+matter1020072626@maildrop.clio.com; Wittig, Donna (Assoc-Las)
Subject: Re: Ignacio Gutierrez, Plaintiff(s)vs. SFR [Moonlight Stroll] FOF&COL
Attachments: Gutierrez - order on MSJ (1).DOCX

Hi Melanie,

Sorry about the delay. My redlines are attached. Let me know if you have any questions. If you are ok with my changes, you may submit with my esignature.

Thanks,
Diana

From: melanie.morgan@akerman.com
Sent: Tuesday, September 29, 2020 3:45 PM
To: Diana Ebron
Cc: de715b910+matter1020072626@maildrop.clio.com ; donna.wittig@akerman.com
Subject: RE: Ignacio Gutierrez, Plaintiff(s)vs. SFR [Moonlight Stroll] FOF&COL

Hi Diana,

I know you have a lot on your plate, but we really need to get this FOF&COL submitted. Please let us know if we can submit with your electronic signature.

Thanks,

Melanie Morgan

Partner, Consumer Financial Services Practice Group
Akerman LLP | 1635 Village Center Circle, Suite 200 | Las Vegas, NV 89134
D: 702 634 5005
Admitted to Practice in Nevada and Texas
melanie.morgan@akerman.com

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From: Morgan, Melanie (Ptnr-Las)
Sent: Monday, September 21, 2020 3:06 PM
To: 'Diana Ebron'
Cc: 'Moonlight Stroll Street (de715b910+matter1020072626@maildrop.clio.com)'; Wittig, Donna (Assoc-Las)
Subject: RE: Ignacio Gutierrez, Plaintiff(s)vs. SFR [Moonlight Stroll] FOF&COL

Hi Diana,

Following up on the attached findings of fact and conclusions of law. Please let us know if we can submit with your electronic signature.

Thanks,

Melanie Morgan

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Ignacio Gutierrez, Plaintiff(s)

CASE NO: A-13-684715-C

7 vs.

DEPT. NO. Department 18

8 SFR Investments Pool 1 LLC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
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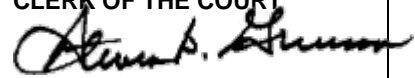
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Attorneys for Nationstar Mortgage LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC; NEVADA
ASSOCIATION SERVICES, INC.; HORIZON
HEIGHTS HOMEOWNERS ASSOCIATION;
KB HOME MORTGAGE COMPANY, a foreign
corporation; DOE Individuals I through X; ROE
Corporations and Organizations I through X,

Defendants.

SFR INVESTMENTS POOL 1, LLC, Nevada
Limited Liability Company,

Counter-Claimant and Third Party Plaintiff,

vs.

IGNACIO GUTIERREZ, an individual;
NATIONSTAR MORTGAGE, LLC, a Delaware
limited liability company; COUNTRYWIDE
HOME LOANS, INC., a foreign corporation;
DOES I through X; and ROES 1-10, inclusive,

Counter-Defendant and Third Party Defendants.

Case No.: A-13-684715-C

Dept.: XVIII

**NOTICE OF ENTRY OF ORDER
GRANTING NATIONSTAR
MORTGAGE LLC'S MOTION FOR
SUMMARY JUDGMENT AND DENYING
SFR'S MOTION TO STRIKE**

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that an **ORDER GRANTING NATIONSTAR MORTGAGE
LLC'S MOTION FOR SUMMARY JUDGMENT AND DENYING SFR'S MOTION TO**

1 **STRIKE** has been entered by this Court on the 6th day of October, 2020, in the above-captioned
2 matter. A copy of said Order is attached hereto as **Exhibit A**.

3 Dated this 6th day of October, 2020.

4 Akerman LLP

5 /s/ Melanie D. Morgan

6 Melanie D. Morgan, Esq.

7 Nevada Bar No. 8215

8 Donna M. Wittig, Esq.

9 Nevada Bar No. 11015

10 1635 Village Center Circle, Suite 200

11 Las Vegas, Nevada 89134

12 *Attorneys for Nationstar Mortgage LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 6th day of October, 2020, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING NATIONSTAR MORTGAGE LLC'S MOTION FOR SUMMARY JUDGMENT AND DENYING SFR'S MOTION TO STRIKE**, in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

KIM GILBERT EBRON

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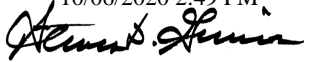
I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

/s/ Carla Llarena

An employee of AKERMAN LLP

EXHIBIT A

EXHIBIT A


CLERK OF THE COURT

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DISTRICT COURT

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Plaintiff,

vs.

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ASSOCIATION SERVICES, INC.; HORIZON
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KB HOME MORTGAGE COMPANY, a foreign
corporation; DOE Individuals I through X; ROE
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Defendants.

SFR INVESTMENTS POOL 1, LLC, Nevada
Limited Liability Company,

Counter-Claimant and Third Party Plaintiff,

vs.

IGNACIO GUTIERREZ, an individual;
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HOME LOANS, INC., a foreign corporation;
DOES I through X; and ROES 1-10, inclusive,

Counter-Defendant and Third Party Defendants.

Case No.: A-13-684715-C

Dept.: XVIII

**[PROPOSED] ORDER GRANTING
NATIONSTAR MORTGAGE LLC'S
MOTION FOR SUMMARY JUDGMENT
AND DENYING SFR'S MOTION TO
STRIKE**

On August 26, 2020, Nationstar Mortgage LLC's (**Nationstar**) motion for summary judgment and SFR Investments Pool 1, LLC's (**SFR**) opposition thereto and renewed countermotion to strike came for hearing before the Court. Melanie D. Morgan, Esq. of Akerman LLP appeared on behalf of

1 Nationstar and Diana Ebron, Esq. of Kim Gilbert Ebron, appeared on behalf of SFR. No appearances
2 were made on behalf of plaintiff or Nevada Association Services, Inc. (**NAS**).

3 Having heard the oral arguments presented by Nationstar and SFR, and having read and
4 considered all briefs, the Court makes the following Findings of Fact, Conclusions of Law and
5 Judgment.

6 **FINDINGS OF FACT**

7 1. A Deed of Trust listing Ignacio Gutierrez as the borrower (**Borrower**); KB Home
8 Mortgage Company (**KB Home**) as the lender (**Lender**); and Mortgage Electronic Registration
9 System (**MERS**), as beneficiary solely as nominee for Lender and Lender's successors and assigns,
10 was executed on July 6, 2005, and recorded on July 20, 2005. The Deed of Trust granted Lender a
11 security interest in real property known as 668 Moonlight Stroll Street, Henderson, NV 89015 (the
12 **Property**) to secure the repayment of a loan in the original amount of \$271,638.00 made to the
13 Borrowers. *Id.* The Note and Deed of Trust are collectively referred to as the **Loan**.

14 2. Freddie Mac purchased the Loan and thereby obtained a property interest in the Deed
15 of Trust on or about August 22, 2005. Freddie Mac maintained that ownership at the time of the HOA
16 Sale (as defined below) on April 5, 2013.

17 3. In July 2008, Congress passed the Housing and Economic Recovery Act of 2008
18 (**HERA**), Pub. L. No. 110-289, 122 Stat. 2654, codified at 12 U.S.C. § 4511 *et seq.*, which established
19 the Federal Housing Finance Agency (**FHFA**) to regulate Freddie Mac, the Federal National Mortgage
20 Association, and the Federal Home Loan Banks.

21 4. On September 6, 2008, FHFA's Director placed Freddie Mac into conservatorship.

22 5. On April 23, 2012, MERS, as nominee for Lender and Lenders successors and assigns,
23 recorded an assignment of the Deed of Trust to Bank of America, N.A.

24 6. On November 28, 2012, Bank of America, N.A. recorded an assignment of the Deed
25 of Trust to Nationstar.

26 7. At the time of the HOA Sale on April 5, 2013, Nationstar was the servicer of the Loan
27 for Freddie Mac.

1 8. The relationship between Nationstar, as the servicer of the Loan, and Freddie Mac, as
2 owner of the Loan, is governed by the Freddie Mac Single-Family Seller/Servicer Guide (the **Guide**),
3 a central governing document for Freddie Mac's relationship with servicers nationwide. Among other
4 things, the Guide provides that Freddie Mac's servicers may act as record beneficiaries for the deeds
5 of trust owned by Freddie Mac and requires that servicers assign these deeds of trust to Freddie Mac
6 upon Freddie Mac's demand. Guide at 1101.2(a).

7 9. The Guide provides:

8 For each Mortgage purchased by Freddie Mac, the Seller and the Servicer
9 agree that Freddie Mac may, at any time and without limitation, require the
10 Seller or the Servicer, at the Seller's or the Servicer's expense, to make such
endorsements to and assignments and recordations of any of the Mortgage
documents so as to reflect the interests of Freddie Mac.

11 Guide at 1301.10.

12 10. The Guide also provides:

13 The Seller/Servicer is not required to prepare an assignment of the Security
14 Instrument to Freddie Mac. However, *Freddie Mac may, at its sole
15 discretion and at any time, require a Seller/Servicer, at the Seller/Servicer's
expense, to prepare, execute and/or record assignments of the Security
Instrument to Freddie Mac.*

16 Guide at 6301.6 (emphasis added).

17 11. The Guide authorizes servicers to foreclose on deeds of trust on behalf of Freddie
18 Mac. *See, e.g.,* Guide at 8105.3, 9301.1, 9301.12, 9401.1.

19 12. Accordingly, the Guide also provides for a temporary transfer of possession of the note
20 when necessary for servicing, including foreclosure. *See* Guide at 8107.1, 8107.2, 9301.11. However,
21 when in "physical or constructive possession of a Note," the Servicer must "follow prudent business
22 practices" to ensure that the note is "identif[ied] as a Freddie Mac asset." *Id.* at 8107.1(b).
23 Furthermore, when transferring documents in a mortgage file, including a note, the servicer must
24 ensure the receiver acknowledges that the note is "Freddie Mac's property." Guide at 3302.5.

25 13. The Guide also includes chapters regarding how and when servicers should appear as
26 parties to litigation involving Freddie Mac loans. *See* Guide at 9402.2 ("Routine and non-routine
27
28

litigation"), 9501 ("Selection, Retention and Management of Law Firms for Freddie Mac Default Legal Matters.").

14. The Guide provides:

All documents in the Mortgage file, . . . and all other documents and records related to the Mortgage of whatever kind or description . . . will be, and will remain at all times, the property of Freddie Mac. All of these records and Mortgage data in the possession of the Servicer are retained by the Servicer in a custodial capacity only.

Guide at 1201.9.

15. The Guide provides that a transferee servicer undertakes all responsibilities under the Guide. *See* Guide at 7101.15(c).

16. Finally, the Guide provides:

When a Transfer of Servicing occurs, the Transferor Servicer may not . . . further endorse the Note, but must prepare and complete assignments . . .

To prepare and complete an assignment of a Security Instrument for a Subsequent Transfer of Servicing for a Mortgage not registered with MERS, the Transferor Servicer must . . . [a]ssign the Security Instrument to the Transferee Servicer and record the assignment.

Guide at 7101.6.

17. On July 10, 2012, the HOA recorded a Notice of Delinquent Assessment Lien.

18. On August 30, 2012, the HOA recorded a Notice of Default and Election to Sell under the Deed of Trust.

19. On February 20, 2013, the HOA recorded a Notice of Foreclosure Sale.

20. On April 5, 2013, the HOA sold the Property to SFR for \$11,000.00 (**HOA Sale**). A foreclosure deed was recorded against the Property on April 8, 2013.

21. At no time did the FHFA consent to the HOA Sale extinguishing or foreclosing Freddie Mac's interest in the Property. *See* FHFA's Statement on HOA Super-Priority Lien Foreclosures (Apr. 21, 2015), www.fhfa.gov/Media/PublicAffairs/Pages/Statement-on-HOA-Super-Priority-Lien-Foreclosures.aspx.

22. SFR's previous motion for summary judgment was granted by Senior Judge Bixler on October 21, 2015, and the order granting the same was entered on November 10, 2015. Judge Bixler's

1 decision was appealed, and the Nevada Supreme Court remanded the case back to the district court on
2 July 28, 2017. The issues on remand were whether Freddie Mac owned the loan in question at the time
3 of the HOA Sale, and whether Nationstar had a contractual relationship with Freddie Mac to service
4 the Loan.

5 23. Nationstar again moved for summary judgment, and SFR filed a summary judgment
6 motion and a motion to strike the affidavit of Dean Meyer, an employee of Freddie Mac, supporting
7 Nationstar's summary judgment motion. Although Nationstar had disclosed Freddie Mac's business
8 records evidencing its ownership of the Loan during discovery, SFR argued that because Nationstar
9 did not disclose Mr. Meyer as a witness until after the discovery period, the affidavit must be stricken.
10 Nationstar disclosed Mr. Meyer as a corporate representative in its sixth supplemental disclosures on
11 November 29, 2017 after the close of discovery.

12 24. The district court entered summary judgment in Nationstar's favor on April 11, 2018,
13 and denied SFR's motion for summary judgment. SFR appealed and the Nevada Supreme Court again
14 remanded because it could not determine from the record whether the district court's implied decision
15 not to strike Mr. Meyer's declaration was based on a determination that any delayed disclosure of Mr.
16 Meyer as a witness was substantially justified or harmless.

17 25. On remand, the parties filed supplemental briefing. After a hearing, the parties
18 stipulated to reopen discovery for 120 days from the date of entry of an order granting the stipulation,
19 with thirty days after the close of discovery to file dispositive motions.

20 26. The court order granting the stipulation was entered on March 13, 2020 , extending the
21 discovery deadline to Monday, July 13, 2020.

22 27. Following receipt of the subpoena, Freddie Mac produced Mr. Meyer for a deposition
23 on July 13, 2020.

24 28. Nationstar again moved for summary judgment on July 17, 2020. SFR opposed the
25 motion and renewed its countermotion to strike Dean Meyer's affidavit. SFR also filed a motion to
26 compel on August, 12, 2020 seeking to compel Freddie Mac to produce additional documents and
27 seeking to take an additional deposition of Freddie Mac.

CONCLUSIONS OF LAW

1. Summary judgment is appropriate when the pleadings and other evidence on file demonstrate "no genuine issue as to any material fact [remains] and the moving party is entitled to judgment as a matter of law." *See* NRCP 56(c); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). In ruling upon a motion for summary judgment, the Court must view all evidence and inferences in the light most favorable to the non-moving party. *See Torrealba v. Kesmetis*, 124 Nev. 95, 178 P.3d 716 (2008). To rebut a motion for summary judgment, the nonmoving party must present some specific facts to demonstrate that a genuine issue of material fact exists. *Forouzan, Inc. v. Bank of George*, 128 Nev. 896, 381 P.3d 612 (2012).

2. "While the pleadings and other evidence must be construed in the light most favorable to the nonmoving party, that party has the burden to 'do more than simply show that there is some metaphysical doubt' as to the operative facts to defeat a motion for summary judgment." *Wood*, 121 P.3d at 1031 (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio*, 475 U.S. 574, 586 (1986)). The governing law determines which "factual disputes are material and will preclude summary judgment; other factual disputes are irrelevant." *Id.*

Late Disclosure of Dean Meyer was Harmless

3. The Court finds the late disclosure of Dean Meyer was harmless. The documents relied upon by Mr. Meyer in his declaration were timely disclosed. The Court reopened discovery so SFR could depose Mr. Meyer, which it did on July 13, 2020. There is no harm or prejudice to SFR based on the original late disclosure of Dean Meyer as Freddie Mac's corporate witness.

Freddie Mac Ownership / Federal Foreclosure Bar

4. The Nevada Supreme Court held in *Nationstar Mortgage, LLC v. SFR Investments Pool 1, LLC*, that in order "to have standing, 'the party seeking relief [must have] a sufficient interest in the litigation,' so as to ensure 'the litigant will vigorously and effectively present his or her case against an adverse party.'" 396 P.3d 754, 756 Nev. (2017) (citing *Schwartz v. Lopez*, 132 Nev. Adv. Op. 73, 382 P.3d 886, 894 (2016)). The Nevada Supreme Court also held that mortgage loan servicers for Freddie

1 Mac or Fannie Mae may assert the Federal Foreclosure Bar in litigation like this one, and that none of
2 FHFA, Fannie Mae, or Freddie Mac need be joined as a party. *Id.* at 758.

3 5. With regard to Nationstar's argument that NRS 116, *et seq.* (**State Foreclosure**
4 **Statute**) is preempted by 12 U.S.C. § 4617(j)(3), this Court finds that Nationstar, as servicer for
5 Freddie Mac, has an interest in the Property through its contractual servicing relationship with Freddie
6 Mac and as the beneficiary of record of the Deed of Trust. Nationstar's status as servicer of the loan
7 for Freddie Mac is evidenced by Nationstar's business records as well as Freddie Mac's business
8 records from Freddie Mac's MIDAS database, which Freddie Mac uses in its ordinary course of
9 business to manage the millions of loans it owns nationwide, as well as the testimony of Freddie Mac's
10 employee []. Thus, Nationstar may raise the preemptive effect of 12 U.S.C. § 4617(j)(3) on state law
11 in order to defend its interests and Freddie Mac's interests in the Deed of Trust.

12 6. Section 4617(j)(3) preempts the State Foreclosure Statute and, therefore, a homeowner
13 association's foreclosure of its super-priority lien cannot extinguish a property interest of Freddie Mac
14 while it is under FHFA's conservatorship unless FHFA consents to that extinguishment. *Berezovsky*
15 *v. Moniz*, 869 F.3d 923 (9th Cir. 2017).

16 7. Unless FHFA provides its consent, the federal protection shall be given full effect,
17 which includes preemption of state law. SFR bears the burden of proof to establish that FHFA
18 expressly consented to extinguish Freddie Mac's ownership interest in the Deed of Trust. Nevada has
19 a policy against requiring a party to prove a negative, such as proving a lack of consent. *Andrews v.*
20 *Harley Davidson, Inc.*, 106 Nev. 533, 539, 796 P.2d 1092, 1096-97 (1990) (even where a plaintiff
21 bears the burden of proving his or her strict liability claim, "it is unfair to force the plaintiff consumer
22 to prove a negative, i.e., that the product was not altered.")

23 8. FHFA's April 21, 2015 Statement confirms that there was no such consent here. In the
24 absence of express consent, the Court cannot imply FHFA's consent, as doing so would ignore the
25 plain text of the Federal Foreclosure Bar. *See Berezovsky*, 869 F.3d 923 (holding that FHFA's consent
26 can only be manifested affirmatively); *see also Alessi & Koenig, LLC v. Dolan, Jr.*, No. 2:15-cv-
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00805-JCM-CWH, 2017 WL 773872, *3 (D. Nev. Feb. 27, 2017) (citing and relying on cases in which FHFA's statement was sufficient to show FHFA's lack of consent).

9. At the time of the HOA Sale, Freddie Mac was the owner of the Deed of Trust and Note, and its servicer, Nationstar, was the record beneficiary of the Deed of Trust. Freddie Mac's interest in the Property was established by admissible evidence, namely Freddie Mac's business records and the testimony of one of its employees. Under Nevada law, Freddie Mac had a secured property interest at the time of the HOA Sale. *See In re Montierth*, 354 P.3d 648, 651 (Nev. 2015); Restatement (Third) of Property: Mortgages § 5.4 cmt. c. In citing *Montierth* and the Nevada Supreme Court's adoption of the Restatement (Third) of Property: Mortgages, the Ninth Circuit held that a loan-owner servicer relationship "preserves the note owner's power to enforce its interest under the security instrument, because the note owner can direct the beneficiary to foreclose on its behalf." *Berezovsky*, 869 F.3d at 931. Under these circumstances, the loan owner maintains a secured property interest. *Id.*

10. Freddie Mac's interest in Property secured by the Deed of Trust was a property interest protected by 12 U.S.C. § 4617(j)(3). SFR failed to provide proof that the FHFA consented to the HOA Sale extinguishing or foreclosing Freddie Mac's interest in the Property. Accordingly, the HOA sale here did not extinguish the Deed of Trust.

11. Because the Court grants summary judgment in Nationstar's favor based upon 12 U.S.C. § 4617 (j)(3), the Court need not reach Nationstar's remaining arguments.

SRF's Motion to Compel is Moot

12. SFR moved to compel additional testimony and documents from Freddie Mac. Because the Court grants summary judgment in Nationstar's favor, and finds the late disclosure of Mr. Meyer harmless, SFR's motion to compel is moot, and is, therefore, denied.

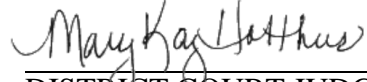
ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Nationstar's motion for summary judgment is Granted and SFR's renewed countermotion to strike, or in the alternative, countermotion for rule 56(d) relief is Denied. The Deed of Trust was not extinguished by the HOA's

foreclosure sale and continues to be a valid and enforceable lien on the Property. SFR's interest in the Property is subject to the Deed of Trust.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that SFR's motion to compel is Denied.

Dated this 6th day of October, 2020



DISTRICT COURT JUDGE

Case No: A-13-684715-C

9E8 D55 6AD8 C082

Mary Kay Holthus
District Court Judge

Submitted by:

/s/ Melanie D. Morgan

Melanie D. Morgan, Esq.

Nevada Bar No. 8215

Donna M. Wittig, Esq.

Nevada Bar No. 11015

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Attorneys for Nationstar Mortgage LLC

Approved as to form and content by:

/s/ Diana S. Ebron

Diana S. Ebron, Esq.

Nevada Bar No. 10580

KIM GILBERT EBRON

7625 Dean Martin Drive, Suite 200

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Llarena, Carla (LAA-Las)

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Sent: Tuesday, September 29, 2020 5:00 PM
To: Morgan, Melanie (Ptnr-Las)
Cc: de715b910+matter1020072626@maildrop.clio.com; Wittig, Donna (Assoc-Las)
Subject: Re: Ignacio Gutierrez, Plaintiff(s)vs. SFR [Moonlight Stroll] FOF&COL
Attachments: Gutierrez - order on MSJ (1).DOCX

Hi Melanie,

Sorry about the delay. My redlines are attached. Let me know if you have any questions. If you are ok with my changes, you may submit with my esignature.

Thanks,
Diana

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Hi Diana,

I know you have a lot on your plate, but we really need to get this FOF&COL submitted. Please let us know if we can submit with your electronic signature.

Thanks,

Melanie Morgan

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From: Morgan, Melanie (Ptnr-Las)
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Subject: RE: Ignacio Gutierrez, Plaintiff(s)vs. SFR [Moonlight Stroll] FOF&COL

Hi Diana,

Following up on the attached findings of fact and conclusions of law. Please let us know if we can submit with your electronic signature.

Thanks,

Melanie Morgan

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Ignacio Gutierrez, Plaintiff(s)

CASE NO: A-13-684715-C

7 vs.

DEPT. NO. Department 18

8 SFR Investments Pool 1 LLC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 10/6/2020

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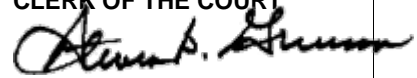
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DISTRICT COURT

CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Plaintiff,

vs.

Case No. A-13-684715-C

Dept. No. XVIII

SFR INVESTMENTS POOL 1, LLC;
NEVADA ASSOCIATION SERVICES, INC.;
HORIZON HEIGHTS HOMEOWNERS
ASSOCIATION; KB HOME MORTGAGE
COMPANY, a foreign corporation, DOE
Individuals I through X, ROE Corporations and
Organizations I through X,

Defendants.

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

Counter-Claimant and Third Party Plaintiff,

vs.

IGNACIO GUTIERREZ, an individual;
NATIONSTAR MORTGAGE, LLC, a
Delaware limited liability company;
COUNTRYWIDE HOME LOANS, INC., A
FOREIGN CORPORATION; DOES I-X; and
ROES 1-10, inclusive,

Counter-Defendant/ Third Party Defendants

NOTICE OF APPEAL

PLEASE TAKE NOTICE that SFR Investments Pool 1, LLC hereby appeals from the
following orders and judgments:

1. Order Granting Nationstar Mortgage, LLC's Motion for Summary Judgment and Denying SFR's Motion to Strike entered on October 6, 2020; and
2. Any and all orders made appealable thereby.

Dated this 5th day of November, 2020

KIM GILBERT EBRON

By: /s/ Jacqueline A. Gilbert
JACQUELINE A. GILBERT, ESQ.
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7625 Dean Martin Drive, Suite 110
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*Attorney for Defendant/Counterclaimant/
Cross-Claimant,
SFR Investments Pool 1, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of November 2020, pursuant to NRCP 5(b)(2)(D), I caused service of a true and correct copy of the foregoing **NOTICE OF APPEAL** to be made electronically via the Eighth Judicial District Court's electronic filing system

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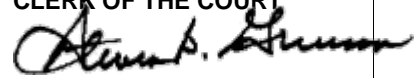
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/s/ Jacqueline A. Gilbert
An employee of KIM GILBERT EBRON



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Attorneys for SFR Investments Pool 1, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

IGNACIO GUTIERREZ, an individual,

Case No. A-13-684715-C

Plaintiff,

Dept. No. XVIII

vs.

CASE APPEAL STATEMENT

SFR INVESTMENTS POOL 1, LLC;
NEVADA ASSOCIATION SERVICES, INC.;
HORIZON HEIGHTS HOMEOWNERS
ASSOCIATION; KB HOME MORTGAGE
COMPANY, a foreign corporation, DOE
Individuals I through X, ROE Corporations and
Organizations I through X,

Defendants.

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

Counter-Claimant and Third Party Plaintiff,

vs.

IGNACIO GUTIERREZ, an individual;
NATIONSTAR MORTGAGE, LLC, a
Delaware limited liability company;
COUNTRYWIDE HOME LOANS, INC., A
FOREIGN CORPORATION; DOES I-X; and
ROES 1-10, inclusive,

Counter-Defendant/ Third Party Defendants

AMENDED CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

Defendant/Counter-claimant/Third Party Plaintiff SFR Investment Pool 1, LLC

2. Identify the judge issuing the decision, judgment, or order appealed from:

The Honorable Mary Kay Holthus

3. Identify each appellant and the name and address of counsel for each appellant:

*Attorney for Defendant/Counterclaimant/Third-Party Plaintiff,
SFR Investments Pool 1, LLC*

JACQUELINE A. GILBERT, ESQ.

DIANA S. EBRON, ESQ.

KAREN L. HANKS, ESQ.

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4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

Appellate Counsel Unknown; Trial Counsel for Respondent Nationstar Mortgage, LLC

ARIEL E. STERN, ESQ.

MELANIE D. MORGAN, ESQ.

DONNA M. WITTIG, ESQ.

AKERMAN, LLP

1635 Village Center Circle, Suite 200

Las Vegas, NV 89134-6375

(702) 634-5000

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

N/A

6. Indicate whether appellant was represented by appointed or retained counsel in the district court:

Retained counsel

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

Retained counsel

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

N/A

9. Indicate the date the proceedings commenced in the district court, e.g., date complaint, indictment, information, or petition was filed:

Complaint filed July 8, 2013

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

Former homeowner Ignacio Gutierrez filed a complaint for wrongful foreclosure and declaratory judgment after defendant Horizon Heights Homeowners Association (“Association”) foreclosed on the subject property pursuant to NRS 116.3116 et seq, and SFR purchased the property at a publically held-foreclosure auction. SFR filed an answer and brought counter-claims against Gutierrez and third-party complaint against third-party defendants Nationstar Mortgage, LLC and Countrywide Home Loans, LLC for quiet title/declaratory judgment, injunctive relief, and, in the alternative, unjust enrichment. Mr. Gutierrez was eventually dismissed from the case.

The district court originally entered summary judgment in favor of SFR, which the Bank appealed. This Court authored a published opinion in that case, *Nationstar Mortgage, LLC v. SFR Investments Pool 1, LLC*, 133 Adv. Op. 34 (June 22, 2017).

Following remittitur, both parties moved for summary judgment and the District Court the District Court granted Nationstar’s Motion for Summary Judgment from which SFR appealed. This Court, on October 24, 2019, by unpublished order vacated and remanded because the district court failed to provide any reasoning or direct order regarding SFR’s motion to strike the declaration of Dean Meyer.

Following remittitur, the parties provided supplemental briefing to the DC and stipulated to reopen discovery. SFR was forced to move to compel certain discovery, for example, deposition of Freddie Mac and documents from MERS, and when Nationstar filed its new motion for summary judgment, SFR opposed, renewed

its countermotion to strike or in the alternative for Rule 56(d) relief. The DC ultimately granted Nationstar's motion for summary judgment, denied SFR's motion to compel and SFR's motion to strike. The Order was entered on October 6, 2020, and notice of entry of which was entered the same day.

11. Indicate whether the case has previously been the subject of an appeal or an original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding.

Nationstar Mortgage, LLC v. SFR Investments Pool 1, LLC, Case No.: 69400
SFR Investments Pool 1, LLC v Nationstar Mortgage, LLC, Case No. 75890

12. Indicate whether this appeal involves child custody or visitation:

N/A

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

SFR is always willing to talk settlement but believes the likelihood of settlement is low as it has found Freddie Mac unwilling to settle for less than full market value or full payoff amount.

DATED November 5, 2020.

KIM GILBERT EBRON

/s/ Jacqueline A. Gilbert

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Attorney for Defendant/Counterclaimant/

Third-Party Plaintiff,

SFR Investments Pool 1, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of November 2020, pursuant to NRCP 5(b)(2)(D), I caused service of a true and correct copy of the foregoing **CASE APPEAL STATEMENT** to be made electronically via the Eighth Judicial District Court's electronic filing system

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/s/ Jacqueline A. Gilbert

An employee of KIM GILBERT EBRON