

IN THE SUPREME COURT OF NEVADA

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

Appellant,

vs.

NATIONSTAR MORTGAGE, LLC,
A DELAWARE LIMITED
LIABILITY COMPANY,

Respondent.

Case No. 82078

Electronically Filed
Feb 02 2022 11:04 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

From the Eighth Judicial District Court, Clark County
The Honorable Mary Kay Holthus, District Judge
District Court Case No. A-13-684715-C

NOTICE OF SUPPLEMENTAL AUTHORITY

AARON D. LANCASTER, ESQ.

Nevada Bar No. 10115

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Nationstar Mortgage LLC

Pursuant to Nevada Rule of Appellate Procedure 31(e), Respondent Nationstar Mortgage LLC (“Nationstar”) respectfully notifies the Court of two pertinent and significant decisions issued after Nationstar filed its brief: *Bayview Loan Servicing, LLC v. 6364 Glenolden St. Tr.*, No. 19-17544, 2021 WL 4938115

(9th Cir. Oct. 22, 2021) (“*Bayview*”), and *Ditech Fin., LLC v. SFR Invs. Pool 1, LLC*, No. 81949, 2021 WL 5993383 (Nev. Dec. 17, 2021) (“*Aberasturi*”). *Bayview* and *Aberasturi* both address a key issue presented in this appeal and support legal propositions asserted in Nationstar’s Answering Brief. [See Doc. 21-27815 at 18–31].

In *Bayview*, the Ninth Circuit denied an HOA sale purchaser’s request for remand and held that *Collins v. Yellen*, __ U.S. __, 141 S. Ct. 1761, 210 L.Ed.2d 432 (2021)—a U.S. Supreme Court decision holding, among other things, that Congress improperly restricted Presidential authority by imposing a “for-cause” removal requirement as to FHFA’s Director—neither “voided FHFA’s actions with regard to the condo loan owned by Freddie Mac” nor conferred broad “standing to recover damages from FHFA.” *Id.* at *2. The Ninth Circuit deemed the *Collins* argument “not persuasive for several reasons.” *Id.* at *1. First, the Ninth Circuit confirmed that *Collins* “did not invalidate any FHFA actions because the agency’s directors were properly appointed by the President and thereby had the authority to carry out the functions of that office,” and thus the Ninth Circuit rejected as “baseless” the “suggestion that *Collins* voided FHFA’s actions.” *Id.* at *2 (citing *Collins*, 141 S. Ct. at 1787). Second, the Ninth Circuit held that a party could seek damages against FHFA as conservator under *Collins* “only by causally linking a specific, tangible harm to the for-cause removal provision.” *Id.* at *2.

In *Aberasturi*, this Court rejected respondent’s request to seek money damages, based on a *Collins* theory, on remand—as respondent did not explain “from whom it wishes to seek money damages” or “why it was unable to previously make arguments similar to those asserted by the plaintiffs in *Collins*.” 2021 WL 5993383 at *1. The Court remanded to the district court with instructions that the servicer “[was] entitled to a judgment in its favor without the need for additional discovery or briefing.” *Id.*

Here, Nationstar’s argument is substantively the same as in *Bayview* and *Aberasturi*, and both *Bayview* and *Aberasturi* supplement the authorities cited in Nationstar’s Answering Brief. [See Doc. 21-27815 at 18–31].

CONCLUSION

Nationstar respectfully requests that the Court take *Bayview* and *Aberasturi* into account when considering the merits of this appeal.

Dated: February 2, 2022

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