

**IN THE SUPREME COURT OF NEVADA**

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

Appellant,

v.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION, a national  
association,

Respondent.

Supreme Court No. 83214

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Elizabeth A. Brown  
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**REPLY IN SUPPORT OF MOTION TO STAY BRIEFING**

Respondent JPMorgan Chase Bank, National Association (“Chase”) submits the following reply to the opposition filed by appellant SFR Investments Pool 1, LLC (“SFR”) to Chase’s Motion to Stay Briefing. In its Motion to Stay Briefing, Chase asked the Court to stay the deadlines for Chase’s answering brief and SFR’s reply brief pending a decision on Chase’s Motion for Summary Affirmance. SFR claims that the stay will prejudice SFR because it will allow Chase to have the “last word” on this appeal when SFR presumably files an opposition to the Motion for Summary Affirmance and when Chase presumably files a reply.

At bottom, SFR’s argument is an objection to the Motion for Summary Affirmance, not to the Motion to Stay Briefing. If the Court agrees with SFR’s (incorrect) position that it is “unfair” for Chase to have the last word on this appeal,

then the Court could (upon a proper showing) allow SFR to file a surreply to the Motion for Summary Affirmance.<sup>1</sup> Or it could deny the Motion for Summary Affirmance, direct Chase to file an answering brief, and direct SFR to file a reply brief, though that would hardly be efficient if the Court is otherwise persuaded that the Motion for Summary Affirmance is meritorious. However, in no event should the Court require an answering brief and reply brief before it decides the Motion for Summary Affirmance. Such briefing will be wasted effort if the Court later summarily affirms the judgment below. That wasted effort is the specific harm that the Motion to Stay Briefing seeks to avoid, and SFR does not refute that specific harm.

Although SFR's "prejudice" argument is actually an objection to the Motion for Summary Affirmance, and not to the Motion to Stay Briefing, Chase will briefly respond. By SFR's logic, a motion for summary affirmance can never be granted because it unfairly gives the movant, who is by definition the appellee, the "last word" in the form of a reply in support of the motion. But this Court has in fact granted summary affirmance on several occasions, *see* Motion for Summary Affirmance at 2, and the federal circuit courts routinely do so, *see, e.g., United States v. Hooton*, 693 F.2d 857 (9th Cir. 1982); *Peabody v. United States*, 263 F. App'x

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<sup>1</sup> Until a response and reply are filed, it will be premature to assess whether a surreply would be useful and appropriate; at this point, therefore, Chase does not consent.

560 (9th Cir. 2008); *Diaz v. Johnson*, No. 19-1501, 2020 WL 9437887 (1st Cir. Nov. 12, 2020); *Thomas v. Washington Metro. Area Trans. Auth.*, No. 19-7112, 2020 WL 768240 (D.C. Cir. Feb. 4, 2020). These decisions belie SFR’s implication that summary affirmance is inherently unfair or incompatible with appellate practice. Any party that files a motion will have the last word when it files a reply—but that fact, standing alone, does not justify denying the motion.

SFR’s complaint rings especially hollow given that SFR has already filed a 21-page opening brief. In that brief, SFR had more than enough space—up to 14,000 words—to present any non-frivolous arguments for why the district court erred. In contrast, Chase was limited to 10 pages of argument in its Motion for Summary Affirmance and will be limited to 5 pages of argument in any reply. *See* NRAP 27(d)(2). In the meantime, SFR will have another opportunity to be heard when it files an opposition to the Motion for Summary Affirmance. These four rounds of argument will give SFR more than enough opportunity to clarify its position.

Accordingly, Chase respectfully requests that the Court grant the Motion to Stay Briefing.

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Dated: January 4, 2021.

BALLARD SPAHR LLP

By: /s/ Matthew D. Lamb

Joel E. Tasca

Nevada Bar No. 14124

1980 Festival Plaza Drive, Suite 900

Las Vegas, Nevada 89135

Matthew D. Lamb

Nevada Bar No. 12991

1909 K Street, NW, 12th Floor

Washington, D.C. 20006

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I certify that on January 4, 2021, I filed the foregoing *Reply in Support of Motion to Stay Briefing*. Service will be made on the following through the Court's electronic filing system:

Jacqueline A. Gilbert  
Diana S. Ebron  
Chantel M. Schimming  
KIM GILBERT EBRON

*Counsel for Respondent*

/s/ Matthew D. Lamb  
An Employee of Ballard Spahr LLP