

FILED

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, as Trustee for FFMLT Trust  
2005-FF8, Mortgage Pass-Through  
Certificates, Series 2005-FF8,

Plaintiff-Appellant,

v.

SFR INVESTMENTS POOL 1, LLC,

Defendant-Appellee.

No. 20-16550

D.C. No.

2:18-cv-00597-JCM-VCF

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
James C. Mahan, District Judge, Presiding

Argued and Submitted October 2, 2023  
Las Vegas, Nevada

Before: RAWLINSON and OWENS, Circuit Judges, and FITZWATER,\*\* District  
Judge.

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by Ninth Circuit Rule 36-3.

\*\* The Honorable Sidney A. Fitzwater, United States District Judge for the  
Northern District of Texas, sitting by designation.

Plaintiff-Appellant Deutsche Bank National Trust Company, as Trustee for FFMLT Trust 2005-FF8, Mortgage Pass-Through Certificates, Series 2005-FF8 (“the Bank”), brought this appeal from a district court order granting the Federal Rule of Civil Procedure 12(b)(6) motion of Defendant-Appellee SFR Investments Pool 1, LLC’s (“SFR”). The order, however, did not finally dispose of SFR’s counterclaim. The Bank moved for summary judgment dismissing the counterclaim, but the district court denied the motion. The district court did not certify its order as a final judgment under Federal Rule of Civil Procedure 54(b).

With exceptions not pertinent here, we only have jurisdiction over appeals from final decisions. *See* 28 U.S.C. § 1291. “[A] final decision is a decision by the District Court that ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.” *United States v. Alvarez-Moreno*, 657 F.3d 896, 899 (9th Cir. 2011) (quoting *Midland Asphalt Corp. v. United States*, 489 U.S. 794, 798 (1989) (cleaned up)). Because SFR’s counterclaim is still pending in the district court, the order on appeal is not a final decision, and we lack jurisdiction. *See id.* The appeal is therefore DISMISSED.