

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

FIRST 100 LLC; KAL-MOR-USA, LLC,  
Plaintiff,  
V.  
BANK OF AMERICA, N.A.; RECONTRUST  
COMPANY, N.A., THE BANK OF NEW  
YORK MELLON, FKA THE BANK OF  
NEW YORK, AS TRUSTEE FOR THE  
CERTIFICATE HOLDERS OF THE  
CWHEQ INC., CWHEQ REVOLVING  
HOME EQUITY LOAN TRUST, SERIES  
2005-F, A REMIC TRUST; DOES I through  
X; and ROE CORPORATIONS I through X,  
inclusive,

2:13-CV-00680-LDG-NJK

## ORDER

Defendants.

BANK OF AMERICA, N.A.

v.

Counterclaimant,

KAL-MOR-USA, LLC,

Counterdefendant.

BANK OF AMERICA, N.A.,

v.

Cross-Claimant,

CANYON WILLOWS HOMEOWNERS  
ASSOCIATION; UNITED LEGAL  
SERVICES; and RED ROCK FINANCIAL  
SERVICES,

Cross-Defendants.

Cross-defendant Canyon Willow Homeowners Association (the HOA) moves to dismiss cross-plaintiff Bank of America, N.A.'s cross-claims (ECF No. 78). The HOA is joined by cross-defendant Red Rock Financial Services (ECF No. 80). Bank of America opposes the motion.

Canyon Willow argued, in part, that Bank of America's claims are barred by the statute of limitations. Bank of America responded that its claims were not barred because its claims would not even accrue until it incurred damages, and that it would incur damages only upon a declaration by this Court that its first deed of trust is invalid.

Subsequent to the parties' briefing on the motion to dismiss, the Court has determined that the HOA's foreclosure sale did not extinguish Bank of America's deed of trust and has granted summary judgment in favor of the Bank of America's counterclaims and against Kal-Mor-USA LLC's claims. As such, it would appear to the Court that Bank of America's cross-claims, as well as Canyon Willow's motion to dismiss those claims, may have been rendered moot by these subsequent proceedings. To ensure that the Court does not render an advisory opinion regarding Bank of America's cross-claims, and to provide the parties an opportunity to fully address the impact of these subsequent developments in this matter as relevant both to the motion to dismiss and whether Bank of America may continue to prosecute its cross-claims, the Court will deny the motion to dismiss without prejudice. Accordingly,

THE COURT **ORDERS** that Canyon Willow Homeowners Association's Motion to Dismiss (ECF No. 78) is DENIED without prejudice.

DATED this 2 day of September, 2017.

  
Lloyd D. George  
United States District Judge