Abran E. Vigil 1 Nevada Bar No. 7548 Sylvia O. Semper 2 Nevada Bar No. 12863 Matthew D. Lamb 3 Nevada Bar No. 12991 BALLARD SPAHR LLP 100 North City Parkway, Suite 1750 Las Vegas, Nevada 89106 Telephone: (702) 471-7000 Facsimile: (702) 471-7070 vigila@ballardspahr.com sempers@ballardspahr.com 7 lambm@ballardspahr.com Attorneys for Citibank, N.A. as Trustee for Structured Asset Mortgage Investments II Trust 2007-AR7 Mortgage Pass-Through Certificates 2007 –AR7 10 UNITED STATES DISTRICT COURT 11 DISTRICT OF NEVADA 12 LN MANAGEMENT, LLC SERIES 5664 DIVOT, Case No. 2:13-cv-01420-RCJ-GWF 13 14 Plaintiff, STIPULATION AND ORDER TO MODIFY COURT'S NOVEMBER 19. 15 2013 ORDER [Doc. 18] KIT DANSKER and JPMORGAN CHASE BANK, NA 17 Defendants, 18 19 20 Plaintiff LN Management LLC Series 5664 Divot and Defendant JPMorgan 21 Chase Bank, National Association ("Chase" and together with Plaintiff, the 22 "Parties") stipulate as follows: 23 1. This is a quiet title action involving property at 5664 Divot Place, Las 24 Vegas, Nevada 89130 (the "Property"). 25 2. The Los Prados Community Association purportedly foreclosed against 26 the Property on March 15, 2013 pursuant to a lien for delinquent assessments. 27 3. As the highest bidder at the sale, Plaintiff claims it acquired title to

the Property free and clear of Chase's first deed of trust.

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- 4. Plaintiff initiated this quiet title action against Chase and borrower Kit Dansker in the Eighth Judicial District Court of Nevada on May 31, 2013. Chase removed the case to this Court on the basis of diversity jurisdiction on August 8, 2013. [Doc. 1].¹
- 5. Plaintiff moved to remand the case to state court on September 5, 2013. [Doc. 9].
- 6. Chase moved to dismiss Plaintiff's complaint and to expunge Plaintiff's notice of lis pendens against the Property on September 13, 2013. [Doc. 13]. Chase argued that, under Nevada law, the foreclosure of an HOA lien never extinguishes a first deed of trust because an HOA lien is junior in priority to a first deed of trust.
- 7. In an order filed November 19, 2013 [Doc. 18], this Court denied Plaintiff's motion to remand and granted Chase's motion to dismiss and to expunge the notice of lis pendens. The Court held that, as a matter of lien priority, a Nevada HOA foreclosure never extinguishes a first deed of trust.
 - 8. The Court entered a final judgment on November 20, 2013. [Doc. 19].
 - 9. Plaintiff filed a notice of appeal on December 17, 2013. [Doc. 20].
- 10. On September 18, 2014, the Nevada Supreme Court issued its opinion in <u>SFR Investments Pool 1, LLC v. U.S. Bank, N.A.</u>, 130 Nev. Adv. Op. 75, 334 P.3d 408.
- 11. <u>SFR Investments</u> holds that the proper foreclosure of an HOA lien entitled to a "super-priority" under NRS 116.3116(2) may extinguish a first deed of trust.
- 12. On February 24, 2015, the Parties moved to dismiss the appeal without prejudice to reinstatement. [App. Doc. 21].
- 13. On February 25, 2015, the Ninth Circuit Court of Appeals entered an order dismissing the appeal without prejudice to reinstatement. [App. Doc. 22].

¹ "Doc." references to district court filings and "App. Doc." references to appellate court filings.

1	14. The Parties herein agree that the Court's November 19, 2013 order		
2	should be modified to deny Chase's motion to dismiss and Chase' motion to expunge		
3	the notice of lis pendens.		
4	15. The parties further agree to set aside the final judgment entered on		
5	November 20, 2013.		
6	16. Chase reserves the right to raise any defenses to Plaintiff's claims that		
7	are not controlled by the Nevada Supreme Court's <u>SFR Investments</u> decision.		
8	17. Chase will file its answer to Plaintiff's complaint within 21 days of		
9	service of an order granting this stipulation, and the Parties will proceed in the		
10	ordinary course of litigation.		
11	Datad: Manah	2015	Dated: March , 2015
12	Dated: March	, 2015 OF KERRY FAUGHNAN	BALLARD SPAHR LLP
13	By: /s/ Kerry		By: <u>/s/ Sylvia O. Semper</u>
14	Kerry Fa	ughnan, Esq. Bar No. 12204	Abran E. Vigil Nevada Bar No. 7548
15	P.O. Box		Sylvia O. Semper Nevada Bar No. 12863
16		for Plaintiff	100 N. City Pkwy., Ste. 1750 Las Vegas, Nevada 89106
1718			Attorneys for Defendant-Appellee JPMorgan Chase Bank, National
19			Association
20	ORDER		
21	IT IS SO ORDERED.		
22	Dated this 27th day of March, 2015.		
23			
24	(Janes		
25	UNITED STATES DISTRICT JUDGE		
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27			
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