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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 BANK OF AMERICA, N.A.,
13
14 Plaintiff,

15 vs.

16 SFR INVESTMENTS POOL1, LLC;
MONTEROSSO PREMIER HOMEOWNERS
17 ASSOCIATION; DOE INDIVIDUALS I-X,
inclusive, and ROE CORPORATIONS I-X,
18 inclusive,
19 Defendants.

CASE NO.: 2:15-cv-00693-GMN-VCF

20 **JOINT STIPULATION AND**
21 **ORDER TO STAY DISCOVERY**

22 **(First Request)**

23 Plaintiff Bank of America, N.A. (“BANA”), by and through its attorneys of record,
24 Akerman, LLP, Defendant SFR Investments Pool 1, LLC (“SFR”), by and through its attorneys
25 of record, Howard Kim & Associates, and Defendant Monterosso Premier Homeowners
26 Association (“Monterosso”), by and through its attorneys of record Gordon Rees, LLP, hereby
27 stipulate and agree pursuant to Local Rule 7-1 as follows:

28 1. Pursuant to Local Rule 26-1(d), the plaintiff shall initiate “the Fed. R. Civ. P.
26(f) meeting within thirty (30) days after the first defendant answers or otherwise appears.” On
June 19, 2015, Monterosso filed its Motion to Dismiss Complaint for failure to comply with

1 NRS 38.310 (Dkt. #10) (“Motion to Dismiss”). On July 7, 2015, SFR filed its Answer,
2 Counterclaim, and Cross-claim (Dkt. #11).

3 2. Pursuant to Local Rule 26-1(d), “the parties shall submit a stipulated discovery
4 plan and scheduling order” fourteen (14) days after the mandatory Fed. R. Civ. P. 26(f)
5 conference.

6 3. The parties held a conference on July 24, 2015 to discuss discovery and case
7 deadlines, and agreed to enter a stipulation to extend discovery deadlines for the following
8 reasons:

9 4. Monterosso’s Motion to Dismiss (Dkt. #10) seeks to dismiss all the claims against
10 it for lack of subject matter jurisdiction. Monterosso alleges that all of BANA’s claims relate to
11 the interpretation, application, and/or enforcement of the CC&Rs, and other governing
12 documents. It is alleged that BANA failed to submit this case to mandatory mediation with the
13 Nevada Real Estate Division prior to filing a civil action pursuant to NRS 38.310. As such, all
14 the claims against Monterosso are subject to mandatory dismissal without prejudice.

15 5. The parties agree it is in the best interest of all parties to await the Court’s ruling
16 on the Motion to Dismiss (Dkt. #10) prior to setting discovery deadlines and incurring the time
17 and expense of written discovery and depositions in the event the Court dismisses the action in
18 whole or in part.

19 6. Federal district courts have “wide discretion in controlling discovery.” *Little v.*
20 *City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). In exercising this discretion, a district court
21 may stay discovery based on the filing of a motion that is “potential dispositive of the entire
22 case.” *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). *See also Turner*
23 *Broadcasting Sys. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997) (holding that
24 “[w]hether to grant a stay is within the discretion of the Court...”); *Ministerio Roca Solida v.*
25 *U.S. Dep’t of Fish & Wildlife*, 288 F.R.D. 500, 506 (D. Nev. 2013) (“discovery should be stayed
26 while dispositive motions are pending only when there are no factual issues in need of further
27 immediate exploration, and the issues before the Court are purely questions of law...”) (internal
28 quotations omitted). Monterosso takes the position that the Motion to Dismiss is jurisdictional

1 and raises purely legal questions that can be resolved without discovery. As such, it is within the
2 Court’s power to grant a stay of discovery at this time.

3 7. It would be burdensome and unfair to have the parties incur the expense of time-
4 consuming and costly discovery because the parties have agreed to a stay. Rule 1 of the Federal
5 Rules of Civil Procedure provides that the federal rules of practice should be “construed and
6 administered to secure the just, speedy, and *inexpensive* determination of every action and
7 proceeding.” (Emphasis added). Thus, staying discovery in this case is consistent with the spirit
8 and intent of the Federal Rules of Civil Procedure. Further, should the Court agree that this
9 entire matter is governed under NRS 38.310, the court lacks subject matter jurisdiction (on some
10 or all of BANA’s claims) until the parties exhaust administrative remedies. If a stay is not
11 granted, the parties will be required to engage in and incur the costs of discovery which may not
12 be necessary.

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