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11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 SUMMIT REAL ESTATE GROUP, INC.

Case No. 2:15-cv-00760-KJD-GWF

14 Plaintiff,

15 vs.

16 FEDERAL HOME LOAN MORTGAGE
 17 CORPORATION; FHLMC BANK, MITCHELL
 18 LABORWIT,

19 Defendants.

20 **STIPULATION AND [PROPOSED] ORDER STAYING CASE**

21 On August 12, 2016, the Ninth Circuit released its decision in *Bourne Valley Court Trust v.*
 22 *Wells Fargo Bank, N.A.*, a decision which may have a significant effect on this case. *See Bourne Valley*
 23 *Court Trust v. Wells Fargo Bank, NA*, No. 15-15233, 2016 WL 4254983 (9th Cir. Aug. 12, 2016). The
 24 appellant in *Bourne Valley Court Trust* has petitioned the Ninth Circuit for a rehearing *en banc*, which
 25 the parties expect the Ninth Circuit to grant. Therefore, although the parties desire to continue
 26 settlement discussions, they submit that the case should be stayed, pending the Ninth Circuit's decision
 27 on the petition for a rehearing *en banc* and the Ninth Circuit's issuance of its mandate. The parties
 28 respectfully request that the case should be stayed for a period of six months or until the Ninth Circuit
 issues its mandate in *Bourne Valley Court Trust*.

A district court has the inherent power to stay cases to control its docket and promote the

1 efficient use of judicial resources. *Landis v. N. Am. Co.*, 299 U.S. 248, 254–55 (1936); *Dependable*
2 *Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th Cir. 2007). When determining
3 whether to stay a case pending the resolution of another case, a district court must consider (1) the
4 possible damage that may result from a stay, (2) any “hardship or inequity” that a party may suffer if
5 required to go forward, (3) “and the orderly course of justice measured in terms of the simplifying or
6 complicating of issues, proof, and questions of law” that a stay will engender. *Lockyer v. Mirant Corp.*,
7 398 F.3d 1098, 1110 (9th Cir. 2005).

8 In this case, the parties submit that no damage will result from a six month stay of the instant
9 case and that no hardship or inequity will be suffered by the parties, which have agreed to the stay. The
10 parties further submit that the stay is warranted under the circumstances, based upon the Ninth Circuit’s
11 decision in *Bourne Valley*, and the anticipated length of time that it will take for the Ninth Circuit to
12 issue its mandate in that case.

13 Dated: September 22, 2016

Dated: September 22, 2016

14 /s/ Nathan F. Smith

/s/ Zachary T. Ball

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19 *Corporation and M&T Bank*

Attorney for Plaintiffs

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21 **IT IS SO ORDERED.**

22 DATED this 26th day of September, 2016

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26 **UNITED STATES DISTRICT COURT JUDGE**