

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 U.S. BANK AS TRUSTEE FOR GSAA)
4 HOME EQUITY TRUST 2006-9, ASSET-)
5 BACKED CERTIFICATES, SERIES 2006-9,)

Case No.: 2:15-cv-01177-GMN-NJK

6 Plaintiff,)

ORDER

7 vs.)

8 DIAMOND CREEK HOMEOWNERS')
9 ASSOCIATION, et al.,)

10 Defendants.)

11 On May 22, 2018, the Court granted summary judgment to Plaintiff U.S. Bank,
12 (“Plaintiff”) because, under *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, 832 F.3d
13 1154 (9th Cir. 2016), the Diamond Creek Community Association (“HOA”) “foreclosed under
14 a facially unconstitutional notice scheme” and therefore the “foreclosure sale cannot have
15 extinguished” Plaintiff’s deed of trust on the property. (Order 6:1–3, ECF No. 110). The Ninth
16 Circuit has since held, however, that Nevada’s homeowner’s association foreclosure scheme is
17 not facially unconstitutional because the decision in *Bourne Valley* was based on a construction
18 of Nevada law that the Nevada Supreme Court has since made clear was incorrect. *See Bank of*
19 *Am., N.A. v. Arlington W. Twilight Homeowners Ass’n*, 920 F.3d 620, 624 (9th Cir. 2019)
20 (recognizing that *Bourne Valley* “no longer controls the analysis” in light of *SFR Investments*
21 *Pool1, LLC v. Bank of New York Mellon*, 422 P.3d 1248 (Nev. 2018)). Moreover, for orders
22 from this district that relied on *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, 832 F.3d
23 1154 (9th Cir. 2016), and were thereafter appealed, the Ninth Circuit recently began reversing
24 and remanding such orders in light of *Bank of Am., N.A. v. Arlington W. Twilight Homeowners*

1 *Ass'n*, 920 F.3d 620, 624 (9th Cir. 2019). *See, e.g., U.S. Bank, N.A. v. SFR Investments Pool 1,*
2 *LLC*, No. 18-16006, 2019 WL 6817304, at *1 (9th Cir. Dec. 13, 2019).

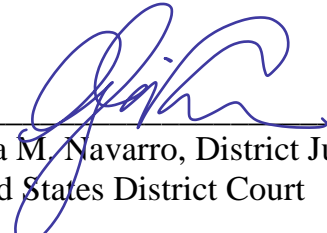
3 Accordingly, to preserve judicial resources,

4 **IT IS HEREBY ORDERED** that the Court's prior Order, (ECF No. 110), is
5 **VACATED.**

6 **IT IS FURTHER ORDERED** that the parties shall have thirty days from the date of
7 this Order to file renewed dispositive motions.

8 The Clerk of Court shall reopen the case and deliver a copy of this Order to the United
9 States Court of Appeals for the Ninth Circuit, Appeal Number 18-16164.

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11 **DATED** this 18 day of December, 2019.

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16 Gloria M. Navarro, District Judge
17 United States District Court
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