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 9

10 **UNITED STATES DISTRICT COURT**
 11 **DISTRICT OF NEVADA**

12 THE BANK OF NEW YORK MELLON, F/K/A
 BANK OF NEW YORK TRUST COMPANY,
 13 NATIONAL ASSOCIATION, AS SUCCESSOR
 IN INTEREST TO JPMORGAN CHASE
 BANK, NATIONAL ASSOCIATION, AS
 14 TRUSTEE FOR THE MLMI SURF TRUST
 SERIES 2005-BC4,

Case No.: 2:15-cv-01178-RFB-NJK

**STIPULATION AND ORDER TO
 SUBSTITUTE REAL PARTY IN
 INTEREST**

15
 16 Plaintiff,

vs.

17 RIVERWALK HOMEOWNERS
 ASSOCIATION; JERRY GUTZMER; DOE
 18 INDIVIDUALS I-X, inclusive, and ROE
 CORPORATIONS I-X, inclusive,

19
 20 Defendants.

21 JERRY GUTZMER,

22 Counter Claimant,

23 vs.

24 THE BANK OF NEW YORK MELLON, F/K/A
 BANK OF NEW YORK TRUST COMPANY,
 25 NATIONAL ASSOCIATION, AS SUCCESSOR
 IN INTEREST TO JPMORGAN CHASE
 BANK, NATIONAL ASSOCIATION, AS
 26 TRUSTEE FOR THE MLMI SURF TRUST
 SERIES 2005-BC4,

27
 28 Counter Defendant.

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1 Plaintiff/Counter-Defendant The Bank of New York Mellon, f/k/a The Bank of New York
2 Trust Company, National Association, as Successor in Interest to JPMorgan Chase Bank, National
3 Association, as Trustee for the MLMI SURF Series 2005-BC4 (**BoNYM**), Defendant Riverwalk
4 Homeowners Association (**Riverwalk**) and Defendant/Counter-Claimant Jerry Gutzmer (**Gutzmer**)
5 hereby stipulate and agree substitute CitiBank, N.A., not in its individual capacity, but solely as
6 trustee of NRZ Pass-Through Trust VI (**CitiBank**) as the real property in interest, in place of
7 BoNYM to this matter and to the case caption. The parties further stipulate as follows:

8 1. Borrowers Alexander and Veronica B. Escalante executed a deed of trust in the
9 amount of \$223,192.00 for property located at 3664 Durant Drive, Las Vegas, Nevada 89122,
10 recorded July 11, 2005, with the Clark County Recorder as Instrument No. 20050711-0001438. The
11 lender under the original deed of trust was Mandalay Mortgage, LC (**Mandalay**), and Mortgage
12 Electronic Registration Systems, Inc. (**MERS**) was listed as nominee for Mandalay.

13 2. On April 9, 2009, Mandalay assigned the deed of trust to assigned to The Bank of
14 New York Trust Company, N.A., as Successor in Interest to JPMorgan Chase Bank, N.A., as Trustee
15 for the MLMI SURF Trust Series 2005-BC4 (**BNY**), by assignment recorded with the Clark County
16 Recorder as Instrument No. 20090409-0004013.

17 3. On August 15, 2012, BNY, through MERS, recorded an assignment of the deed of
18 trust to update the name of the record beneficiary, assigning the deed of trust from BNY to BoNYM
19 (fka BNY), by assignment recorded with the Clark County Recorder as Instrument No. 20120815-
20 0003020.¹

21 4. After initiation of the current litigation, and during the stay of this case, a corrective
22 assignment of deed of trust was recorded against the property on March 21, 2018, with the Clark
23 County Recorder as Instrument No. 20180321-0003458, assigning the deed of trust from BoNYM to
24 Bank of America, N.A. (**BANA**).

25 . . .

26 . . .

27 _____
28 ¹ The HOA foreclosure sale held May 13, 2013, occurred while current plaintiff BoNYM was record
beneficiary.

5. BANA assigned the deed of trust to Nationstar Mortgage LLC (**Nationstar**), on August 16, 2013, as reflected by the assignment of deed of trust recorded against the property with the Clark County Recorder as Instrument No. 20130816-0000223.


6. Nationstar assigned the deed of trust to CitiBank on March 21, 2018, as reflected by the assignment of deed of trust recorded against the property with the Clark County Recorder as Instrument No. 20180321-0003459.

7. Accordingly, the parties stipulate that CitiBank, as current assignee under the deed of trust, should be substituted for BoNYM in this action as plaintiff and counterdefendant.

DATED July 30th, 2019.

<p>AKERMAN LLP</p> <p><u>/s/ Donna M. Wittig</u> MELANIE D. MORGAN, ESQ. Nevada Bar No. 8215 DONNA M. WITTIG, ESQ. Nevada Bar No. 11015 1635 Village Center Circle, Suite 200 Las Vegas, Nevada 89134</p> <p><i>Attorneys for The Bank of New York Mellon, f/k/a The Bank of New York Trust Company, National Association, as Successor in Interest to JPMorgan Chase Bank, National Association, as Trustee for the MLMI SURF Series 2005-BC4</i></p>	<p>LEACH KERN GRUCHOW ANDERSON SONG</p> <p><u>/s/ Ryan D. Hastings</u> SEAN L. ANDERSON, ESQ. Nevada Bar No. 7259 RYAN D. HASTING, ESQ. Nevada Bar No. 12394 2525 Box Canyon Drive Las Vegas, Nevada 89128</p> <p><i>Attorneys for Riverwalk Homeowners' Association</i></p>
<p>AYON LAW, PLLC</p> <p><u>/s/ Luis A. Ayon</u> LUIS A. AYON, ESQ. Nevada Bar No. 9752 8716 Spanish Ridge Avenue, Suite 115 Las Vegas, Nevada 89148</p> <p><i>Attorneys for Jerry Gutzmer</i></p>	

IT IS SO ORDERED.



United States Magistrate Judge

July 31, 2019

DATED