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7	Attorneys for plaintiff and counter-defendant						
8	Nationstar Mortgage LLC and cross-defendant Bank of America, N.A.						
9	UNITED STATES DISTRICT COURT						
10	DISTRICT OF NEVADA						
11	NATIONSTAR MORTGAGE LLC,	Case No.: 2:15					
12	Plaintiff,						
13	·	<del>[PROPOSED]</del> C PART AND					
14	V.	NATIONSTAR					
15	GIAVANNA HOMEOWNERS ASSOCIATION; and SFR INVESTMENTS	EMERGENCY PROTECTION					
16	POOL 1, LLC; DOE INDIVIDUALS I-X; and ROE CORPORATIONS I-X, inclusive,	DEPOSITION SANCTIONS [EG					
17	·	SANCTIONS (EX					
18	Defendants.						
19	SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,						
20	Counter/Cross Claimant,						
21	V.						
22	NATIONSTAR MORTGAGE LLC, a Delaware limited liability company; BANK OF						
23	AMERICA, N.A., a national association; JONI MCGRIFF HOWARD, an individual; and						
24	KENYON HOWARD, an individual,						
25	Counter/Cross Defendants.						
26							
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Case No.: 2:15-cv-01992-LDG-CWH

[PROPOSED] ORDER GRANTING IN **DENYING** IN **PART PART AND NATIONSTAR MORTGAGE** LLC'S **EMERGENCY MOTION FOR PROTECTION FROM** 30(b)(6) **ITS DEPOSITION AND MOTION FOR SANCTIONS [ECF NO. 59]** 

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2	1160 TOWN CENTER DRIVE, SUITE 330	LAS VEGAS, NEVADA 89144	TEL.: (702) 634-5000 - FAX: (702) 380-8572	12
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GIAVANNA HOMEOWNERS ASSOCIATION, Third-Party Plaintiff, v. NEVADA ASSOCIATION SERVICES, INC., Third-Party Defendant.

Plaintiff and counter-defendant Nationstar Mortgage LLC's emergency motion for protection from its Rule 30(b)(6) deposition and motion for sanctions, ECF No. 59, came on for hearing on November 30, 2016, at 9:00 a.m. Natalie Winslow appeared for Nationstar and Diana Cline Ebron appeared for defendant, counter- and cross-claimant SFR Investments Pool 1, LLC. After reviewing the parties' briefing, noting Nationstar's motions present identical issues to a motion CitiMortgage, Inc. filed in CitiMortgage, Inc. v. Mission Hills Homeowners Ass'n, Case No. 2:16-cv-374-JCM-CWH, and hearing from counsel, the Court finds as follows:

### 1. SFR's topic 1 requests testimony on:

Your knowledge of the events and circumstances of the proceedings leading up to and including the Association foreclosure sale, including Your knowledge/notice of the foreclosure proceedings (from the Association or otherwise) and all communications about the Association lien/foreclosure/Borrowers' delinquency with Your agents, the Borrowers, the Association, NAS and/or internally.

This topic should be limited to testimony regarding Nationstar and its predecessor's efforts to tender the super-priority portion of Giavanna Homeowner Association's lien.

## 2. SFR's topic 2 requests testimony on:

Your standing—currently and at the time of the Association foreclosure sale—to enforce the First Deed of Trust/underlying promissory note and the transaction(s) through which You obtained your interest in the First Deed of Trust/underlying promissory note.

This topic should be limited to testimony regarding Nationstar's interest in the First Deed of Trust.

#### 3. SFR's topic 3 requests testimony on:

All actions You allege You took before the Association foreclosure sale to protect Your interest in the Property as it relates to the Association's lien including written agreement(s) with the Borrowers, communications with the Borrowers, communications with the Association/NAS, attendance at the sale, any payments made to the Association/NAS and civil/administrative actions challenging the Association's lien.

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This topic should be protected because it is redundant of SFR's deposition topic 1.

4. SFR's topic 4 requests testimony on:

The foreclosure proceedings related to the first deed of trust.

This topic should be protected because it is not proportional to the needs of the case.

5. SFR's topic 5 requests testimony on:

Your policies and procedures for processing and maintaining documents and communications related to the Association lien/foreclosure received via mail, email, from counsel, or any other means. This topic is limited to practices and procedures that were/are applicable to the Property from origination to present.

This topic should be protected because it is not proportional to the needs of this case.

6. SFR's topic 6 requests testimony on:

Your policies and procedures applicable to the Property for handling association liens from the time the Association recorded its notice of default to the date of the Association foreclosure sale.

This topic should be protected because it is not proportional to the needs of the case.

7. SFR's topic 7 requests testimony on:

Your knowledge and understanding of the transaction(s) through which any other entity besides You, currently claims or claimed at the time of the Association foreclosure sale, an interest in the First Deed of Trust/underlying promissory note.

This topic should be limited to testimony regarding the identity of the beneficiary of the First Deed of Trust at the time Giavanna Homeowners Association foreclosed, the identity of the current beneficiary of the First Deed of Trust, the identity of any other entities who may have an interest in the First Deed of Trust, and the nature of any interest held by any other entities who have an interest in the First Deed of Trust.

8. SFR's topic 8 requests testimony on:

Any action(s) You took to notify third parties, including SFR, of pre-sale dispute between You and the Association and/or NAS.

This topic should be protected because it is not proportional to the needs of this case.

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- 9. Nationstar requested the Court enter an order confirming Nationstar's witness may testify in-person in Dallas, Texas or via video conference. The Court finds a video conference deposition is appropriate. SFR may travel to the witness's location if it desires to take a deposition in-person, but Nationstar's witness should not be required to travel to Las Vegas.
- 10. The Court finds Nationstar had substantial justification for filing its motion. Neither party should be awarded attorneys' fees or costs in connection with Nationstar's motion.

## NOW, THEREFORE, IT IS ORDERED as follows:

- 1. Nationstar's emergency motion for protection from its 30(b)(6) deposition and motion for sanctions, ECF No. 59, is GRANTED IN PART and DENIED IN PART.
- 2. SFR's topic 1 is limited to testimony regarding Nationstar and its predecessor's efforts to tender the super-priority portion of Giavanna Homeowner Association's lien.
- 3. SFR's topic 2 is limited to testimony regarding Nationstar's interest in the First Deed of Trust.
  - 4. SFR's topics 3, 4, 5, 6, and 8 are protected and stricken from SFR's deposition notice.
- SFR's topic 7 is limited to testimony regarding the identity of the beneficiary of the 5. First Deed of Trust at the time Giavanna Homeowners Association foreclosed, the identity of the current beneficiary of the First Deed of Trust, the identity of any other entities who may have an interest in the First Deed of Trust, and the nature of any interest held by any other entities who have an interest in the First Deed of Trust.
- 6. Nationstar's witness need not travel to Las Vegas to attend a Rule 30(b)(6) deposition. SFR may either travel to the witness's location or conduct the deposition by video conference.

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	1 2 3 4 5	7. Neither Nationstar nor SFR are awarded attorneys' fees or costs.
		SO ORDERED, this the 1st of March, 2017.
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		The Hansuble Could Deffere
		The Honorable Carl W. Hoffman United States Magistrate Judge
	6	SUBMITTED BY:
	7	/s/ Tenesa S. Scaturro, Esq.
	8	MELANIE D. MORGAN, ESQ. Nevada Bar No. 8215
	9	TENESA S. SCATURRO, ESQ.
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N LI	VADA AX: (3	Attorneys for plaintiff and counter-defendant
IMA		Nationstar Mortgage LLC and cross-defendant
AKERMAN LLP	N CENTE VEGAS, 3 634-5000	Bank of America, N.A.
A	TOW (702)	APPROVED AS TO FORM:
	1160 I I I I I I I I I I I I I I I I I I I	This the 28th day of February, 2017.
ļ	18	/s/ Diana Cline Ebron, Esq.
	19	DIANA CLINE EBRON, ESQ. Nevada Bar No. 10580
	20	JACQUELINE A. GILBERT, ESQ.
		Nevada Bar No. 10593
	21	KAREN L. HANKS, ESQ. Nevada Bar No. 9578
	22	Kim Gilbert Ebron
	23	7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139
	24	Telephone: (702) 485-3300
		Facsimile: (702) 485-3301
	25	Attorneys for defendant, counterclaimant and
	26	cross-claimant SFR Investments Pool 1, LLC
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# 1 **CERTIFICATE OF SERVICE** 2 I certify on the 28th day of February, 2017, pursuant to Federal Rule of Civil Procedure 5, I 3 filed and served a true and correct copy of the foregoing [PROPOSED] ORDER GRANTING IN 4 PART AND DENYING IN PART NATIONSTAR MORTGAGE LLC'S EMERGENCY 5 MOTION FOR PROTECTION FROM ITS 30(b)(6) DEPOSITION AND MOTION FOR 6 **SANCTIONS** [ECF NO. 59] via the Court's CM/ECF system on the following: 7 Edward D. Boyack, Esq. Colli McKiever, Esq. 8 BOYACK ORME & TAYLOR 401 N. Buffalo Drive #202 9 Las Vegas, Nevada 89145 10 Attorney for Giavanna Homeowners Association 1160 TOWN CENTER DRIVE, SUITE 330 LAS VEGAS, NEVADA 89144 TEL.: (702) 634-5000 – FAX: (702) 380-8572 11 Diana Cline Ebron, Esq. Jacqueline A. Gilbert, Esq. 12 Karen L. Hanks, Esq. Howard C. Kim 13 Trella N. McLean KIM GILBERT EBRON 14 7625 Dean Martin Drive, Suite 110 Las Vegas, Nevada 89139 15 Attorneys for SFR Investments Pool 1, LLC 16 17 /s/ Nick Mangels An employee of AKERMAN LLP 18 19 20 21 22 23 24 25 26 27

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AKERMAN LLP

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