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8	MELLON CORPORATION as Trustee for the Certificateholders of the CWABS, Inc. Asset-
9	backed Certificates Series 2005-17
	backed certificates series 2003 17
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UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

* * *

DITECH FINANCIAL LLC, Plaintiff,

VS.

SFR INVESTMENTS POOL I, LLC; **BOULDER RANCH MASTER** ASSOCIATION; TWILIGHT HOMEOWNERS ASSOCIATION; HOMEOWNERS ASSOCIATION SERVICES, INC.; HARMESH SINGH; KULJIT KAUR; DOES 1-20, Inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC,

Counterclaimant,

DITECH FINANCIAL, LLC, 27

VS.

Counter-Defendant.

CASE NO. 2:16-cv-00127-GMN-NJK

STIPULATION AND ORDER TO DISMISS WITH PREJUDICE ALL CLAIMS BY DITECH FINANCIAL, LLC AGAINST TWILIGHT HOMEOWNERS ASSOCIATION

Page 1 of 5

SFR INVESTMENTS POOL 1, LLC,

Cross-Claimant,

VS.

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DITECH FINANCIAL LLC; BANK OF NEW YORK MELLON, FKA THE BANK OF NEW

YORK as Trustee for the

CERTIFICATEHOLDERS CWABS, INC.,

ERNATIVE LOAN TRUST 2005-J12 SET-BACKED CERTIFICATES SERIES

2005-17; HOUSEHOLD FINANCE REALTY CORPORATION OF NEVADA; HARMESH SINGH, an individual; and KULJIT KAUR, an

individual,

Cross-Defendants.

This Stipulation to Dismiss With Prejudice All Claims by Ditech Financial, LLC Against Twilight Homeowners Association (the "Stipulation") is made by and among Plaintiff/Counter-Defendant/Cross-Defendant Ditech Financial, LLC ("Ditech"), Cross-Defendant The Bank of New York Mellon Corporation as Trustee for the Certificateholders of the CWABS, Inc. Assetbacked Certificates Series 2005-17 ("BONY Mellon" and with Ditech, "Lenders"), and Defendant Twilight Homeowners Association ("Twilight HOA"), and is based on the following facts:

RECITALS

- 1. On January 22, 2016, Ditech commenced this action by filing its Complaint for Declaratory Relief and Ouite Title to Real Property [ECF No. 1] (the "Complaint") naming as Defendants SFR Investments Pool 1, LLC ("SFR"), Boulder Ranch Master Association ("Boulder Ranch"), Twilight HOA, Homeowners Association Services, Inc. ("HAS"), Harmesh Singh ("Singh") and Kuljit Kaur ("Kaur").
- 2. In its Complaint, Ditech alleged, among other things, that as a result of a series of assignments, Ditech was the beneficiary of a certain deed of trust (the "Deed of Trust") recorded in the Clark County Recorder's Office, Clark County, Nevada, as Instrument No. 20051130-0005884, naming Countrywide Home Loans, Inc. ("Countrywide") as the lender and Mortgage Electronic Registration Systems, Inc. ("MERS") as the beneficiary.

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- **3.** The Deed of Trust encumbers certain real property commonly described as 5929 Crumbling Ridge, Henderson, Nevada 89011 ("Property").
- 4. The Deed of Trust secures a promissory note ("Note") signed by Harmesh Singh and Kuljit Kaur, husband and wife as joint tenants ("Borrowers"), on November 22, 2005, stating that Borrowers owe Countrywide \$276,250.00 plus interest.
- 5. The Property is located in a common-interest community in which Boulder Ranch is the master association and Twilight HOA is a sub-association.
- **6.** On or about July 7, 2009, HAS, acting as collection agent for Boulder Ranch HOA, recorded a Notice of Claim of Lien-Homeowner Assessment (the "Boulder Ranch Lien") against the Property in the Clark County Recorder's Office, Clark County, Nevada, as Instrument No. 200907070001893.
- 7. On or about October 21, 2009, HAS, acting as collection agent for Boulder Ranch, recorded a Notice of Default and Election to Sell in the Clark County Recorder's Office, Clark County, Nevada, as Instrument No. 200910210001899.
- 8. On or about July 24, 2012, HAS, acting as collection agent for Twilight HOA, recorded a Notice of Claim of Lien-Homeowner Assessment (the "Twilight Lien") against the Property in the Clark County Recorder's Office, Clark County, Nevada, as Instrument No. 201207240001224.
- 9. On or about February 24, 2014, HAS, acting as collection agent for Boulder Ranch, recorded a *Notice of Sale* in the Clark County Recorder's Office, Clark County, Nevada, as Instrument No. 201402240001318, scheduling a foreclosure sale of the Property to occur on March 13, 2014.
- 10. On July 10, 2014, HAS, as designated agent of Boulder Ranch HOA, executed a certain Foreclosure Deed Upon Sale (the "Foreclosure Deed") conveying an interest in the Property, without covenant, or warranty, to SFR. The Foreclosure Deed was recorded on August 14, 2014 as Instrument No. 201408140001068.

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- 11. The Foreclosure Deed recites that a sale occurred on July 10, 2014 and that the grantee, SFR, acquired the Property "for \$21,000 cash, lawful money of the United States, in full satisfaction of the indebtedness secured by Grantor's lien."
- **12.** A portion of the proceeds from the sale of the Property to SFR may have been used to satisfy the amounts due under the Twilight Lien; however, to the extent Twilight HOA may be entitled to any portion of the proceeds from the sale of the Property to SFR, the HOA waives all such entitlement.
 - **13.** In its Complaint, Ditech asserted the following claims for relief:
 - **a.** Declaratory Relief against all Defendants. Ditech sought, among other things, a declaration regarding the "parties' respective interests in the Property."
 - b. Quiet Title against SFR and Twilight HOA. Ditech sought "judgment quieting title to the Property in the Plaintiff's favor."
 - Accounting against Boulder Ranch, Twilight HOA and HAS. Ditech sought "an accounting of the disposition of all sums received from the sale of the Property."
- 14. Twilight HOA acknowledges and agrees that as a result of the non-judicial foreclosure by Boulder Ranch, all of its interests in the Property regarding the Twilight Lien were extinguished and that as of the date of this Stipulation, Twilight HOA disclaims any interest in the Property other than its ongoing rights under Nevada law, including NRS 116, and the governing documents, including the Covenants, Conditions and Restrictions ("CC&Rs").
- **15.** Lenders and Twilight HOA have agreed, in light of Twilight HOA's acknowledgment that it holds no further interest in the Property, to dismiss all claims against one another, with prejudice.

STIPULATION AND AGREEMENT

Based on the foregoing Recitals, Lenders and Twilight HOA (the "Parties") stipulate and agree as follows:

The Parties jointly request entry by this Court of an order dismissing this action A. with prejudice as set forth below.

2	C. The dismissal of Twilight HOA as a party shall not affect the rights or arguments		
3	that may be presented by the remaining Parties during any trial in this matter, all of which are		
4	expressly reserved.		
5	D. Depositions of Twilight HOA's employees, officers and agents may be used at the		
6	time of trial pursuant to Fed. R. Civ. P. 32 even though Twilight HOA is hereby dismissed as a		
7	"adverse party."		
8	Dated: April 2, 2018	Dated: April 2, 2018	
9	KOLESAR & LEATHAM	LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.	
10			
11	/s/ Scott D. Fleming, Esq. MICHAEL R. BROOKS, ESQ.	/s/ Amber M. Williams, Esq. JOSEPH P. GARIN, ESQ.	
12	Nevada Bar No. 7287	Nevada Bar No. 6653	
12	SCOTT D. FLEMING, ESQ. Nevada Bar No. 5638	J. WILLIAM EBERT, ESQ. Nevada Bar No. 2697	
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		9900 Covington Cross Drive, Suite 120	
15	Attorneys for Plaintiff DITECH FINANCIAL LLC and THE BANK OF NEW YORK	Las Vegas, NV 89144	
16	MELLON CORPORATION as Trustee for the	Attorneys for Defendant	
17	Certificateholders of the CWABS, Inc. Asset- backed Certificates Series 2005-17	Twilight Homeowners Association	
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20	ORDER		
21	Based on the parties' stipulation and good cause appearing, IT IS HEREBY		
22	ORDERED that Defendant Twilight Homeowners Association is DISMISSED with prejudice		
23	IT IS FURTHER ORDERED that Defendant Twilight Homeowners Association's		
24	Motions, (ECF Nos. 112, 114), are DENIED as moot .		
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26	D (141: 2 1 CA (1 2010		
27	Dated this $\frac{2}{}$ day of April, 2018.	- Steel	
		Gloria M. Navarro, Chief Judge	
28		UNITED STATES DISTRICT JUDGE	

The Parties shall each bear their own attorneys' fees and costs.

B.