

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DITECH FINANCIAL LLC,)
)
Plaintiff,)
vs.)
SFR INVESTMENTS POOL I, LLC, *et al.*,)
)
Defendants.)

Case No.: 2:16-cv-00127-GMN-NJK

ORDER

Pending before the Court is the Motion to Expunge Lis Pendens, (ECF No. 152), filed by Bank of New York Mellon Corp., (“BONY Mellon”).¹ SFR Investments Pool 1, LLC (“SFR”) filed a Response, (ECF No. 156), and BONY Mellon filed a Reply, (ECF No. 159).

Also before the Court is SFR’s Motion to Stay Expungement Pending Appeal, (ECF No. 157). BONY Mellon filed a Response, (ECF No. 160), and SFR filed a Reply, (ECF No. 164).

For the reasons discussed below, BONY Mellon’s Motion to Expunge Lis Pendens is **GRANTED**, and SFR’s Motion to Stay Expungement Pending Appeal is **DENIED as moot**.

I. BACKGROUND

This case arises from the non-judicial foreclosure on real property located at 5929 Crumbling Ridge Street, Henderson, Nevada 89011 (the “Property”). (Compl. ¶ 8, ECF No. 1). On April 5, 2018, the Court entered an Order granting summary judgment in favor of Plaintiff as to its quiet title claim. (ECF No. 151). However, because BONY Mellon is the successor to Plaintiff and the beneficiary of the DOT encumbering the Property, the Court quieted title in BONY Mellon’s favor. (*Id.*). Further, the Court denied SFR’s Motion for Summary Judgment and dismissed all its crossclaims and counterclaims. (*Id.*).

¹ BONY Mellon also filed the Declaration of Michael R. Brooks, (ECF No. 153), and accompanying exhibits in support of its Motion to Expunge Lis Pendens.

1 Pursuant to the Court’s April 5, 2018 Order, BONY Mellon filed the instant motion
2 requesting that the lis pendens be expunged. (ECF No. 152). On May 8, 2018, SFR filed a
3 Response asking that the Court deny BONY Mellon’s motion as premature in light of SFR’s
4 Ninth Circuit appeal. (ECF No. 156). Alternatively, SFR moved to stay the expungement
5 pending the outcome of the appeal. (ECF No. 157). On December 11, 2018, the Ninth Circuit
6 Court of Appeals issued an order indicating that, “pursuant to the stipulation of the parties, this
7 appeal is voluntarily dismissed.” (ECF No. 165) (internal citation omitted).

8 **II. DISCUSSION**

9 The lis pendens, by statute, is “a notice of the pendency of the action[.]” Nev. Rev. Stat.
10 § 14.010(1). “The doctrine of lis pendens provides constructive notice to the world that a
11 dispute involving real property is ongoing.” *Weddell v. H2O, Inc.*, 271 P.3d 743, 751 (Nev.
12 2012); *see also Wensley v. First Nat. Bank of Nevada*, 874 F. Supp. 2d 957 (D. Nev. 2012)
13 (granting the request to expunge the lis pendens concurrent with order dismissing the action);
14 *accord Am. Town Center v. Hall 83 Associates*, 912 F.2d 104, 110 (6th Cir. 1990) (“With the
15 complaint dismissed, the notices of lis pendens no longer served any purpose.”).

16 In the present case, the lis pendens no longer serves a purpose. The parties have
17 voluntarily dismissed their Ninth Circuit appeal, therefore, there is no longer an action affecting
18 the title or possession of real property. (*See* ECF No. 165). Accordingly, BONY Mellon’s
19 Motion to Expunge Lis Pendens is granted and SFR’s Motion to Stay Pending Appeal is denied
20 as moot.

21 **III. CONCLUSION**

22 **IT IS HEREBY ORDERED** that BONY Mellon’s Motion to Expunge Lis Pendens,
23 (ECF No. 152), is **GRANTED**.

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