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11 *Attorneys for Defendant*
12 *Monte Bello HOA, Inc.*

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 BANK OF AMERICA, N.A., successor by
12 merger to BAC HOME LOANS SERVICING,
13 LP, FKA COUNTRYWIDE HOME LOANS
14 SERVICING LP;

14 Plaintiffs,

15 vs.

16 MONTE BELLO HOMEOWNERS
17 ASSOCIATION, INC.; BELLARIA PI PBB
18 TRUST; ATC ASSESSMENT COLLECTION
19 GROUP, LLC A/K/A ANGIUS & TERRY
20 COLLECTIONS, LLC,

20 Defendants.

Case No.: 2:16-cv-456

MONTE BELLO HOMEOWNERS
ASSOCIATION, INC.'S
EMERGENCY MOTION TO EXTEND
DISCOVERY DEADLINES

[FIRST REQUEST]

21 COMES NOW, Defendant MONTE BELLO HOMEOWNERS ASSOCIATION, INC., by
22 and through its attorneys, the law firm of Alverson, Taylor, Mortensen & Sanders, and hereby
23 submits its First Request for Motion to Extend Discovery Deadlines.

24 **I. RELEVANT FACTS**

- 25 1. This is the first motion to extend time to conduct discovery.
26 2. This case was filed on March 2, 2016 by Bank of America, N.A. ("BANA")
27 against ATC Assessment Collection Group, LLC a/k/a Angius & Terry Collections, LLC

1 (“ATC”), Bellaria PI PBB Trust (“Bellaria”), Monte Bello Homeowners Association, Inc.
2 (“Monte Bello”).¹ Generally, the claims against ATC, Bellaria, and Monte Bello centered
3 around the foreclosure of 5124 Bellaria Place, Las Vegas, Nevada 89156 (the “Property”) on or
4 about January 19, 2012.

5 3. BANA alleges four causes of action.

- 6 a. Quiet Title/Declaratory Judgment against All Defendants. BANA’s
7 claims alleges violations of its procedure due process rights, implication of
8 the Supremacy clause and other legal issues relating to tender of payment
9 and commercial reasonableness of the foreclosure sale;
10 b. Breach of NRS 116.1113 against Monte Bello and ATC;
11 c. Wrongful Foreclosure against Monte Bello and ATC;
12 d. Injunctive Relief against Bellaria.

13 4. Monte Bello filed its answer to the complaint on April 10, 2016. (Doc. 10).
14 Bellaria filed its answer to the complaint on July 18, 2016. (Doc. 18). ATC filed a motion to
15 dismiss the complaint on March 24, 2016. (Doc. 6). Subsequently, BANA's claims for breach of
16 good faith under NRS 116 and wrongful foreclosure were dismissed without prejudice on
17 September 30, 2016. (Doc. 28). Presently, ATC has not answered BANA’s complaint.

18 5. Notwithstanding all parties have not answered in this case, a Discovery Plan and
19 Scheduling Order was entered on August 15, 2016 (Doc. 23), wherein Monday, January 16, 2017
20 was established as the lost day to complete discovery.

21 6. BANA served its initial disclosures on or about August 8, 2016. Monte Bello
22 served its initial disclosures on January 11, 2017.

23 7. The remaining parties are in need of additional time to exchange initial
24 disclosures required under Fed. R. Civ. P. 26(a)(1)(A).

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¹ Unless otherwise indicated, all facts are addressed in the attached Declaration of Adam R. Knecht,
Esq.

1 8. BANA served written discovery upon Monte Bello on or about November 22,
2 2016. Monte Bello has partially responded to such discovery.

3 9. BANA served written discovery upon Bellaria on or about November 22, 2016.
4 Bellaria has not responded to such discovery.

5 10. BANA served written discovery upon ATC on or about November 22, 2016.
6 A&T has not responded to such discovery.

7 11. BANA noticed the deposition of Bellaria, the Association, and ATC for January
8 11, 2017.

9 12. Discovery in this matter have been difficult to obtain with respect to Monte Bello.
10 A change in the management company for Monte Bello has made it difficult to communicate
11 with Monte Bello regarding necessary documents and Monte Bello's FRCP 30(b)(6) witness for
12 deposition.

13 13. After multiple attempts, I was able to contact Monte Bello's community manager.
14 It was discovered that due to the transition between community managers, Monte Bello's
15 collection files regarding the Property were sent to be stored at Iron Mountain, an offsite storage
16 facility.

17 14. After discussing the matter and discovery concerns with the community manager,
18 I have determined that it will take nearly two weeks to locate Monte Bello's collection file,
19 review it, and produce if for purposes of this litigation.

20 15. It is also my understanding that Bellaria and ATC have had similar discovery
21 issues. For instance, ATC recently merged with Nevada Association Services, Inc. which has
22 complicated procurement of documents necessary to this matter.

23 16. On January 11, 2016, I spoke to counsel for BANA regarding my discovery
24 concerns and my inability to contact Monte Bello's 30(b)(6) witness regarding the deposition
25 noticed by BANA. Due to the circumstances, it was agreed between counsel for BANA and me
26 that I would prepare a stipulation to extend discovery from January 16, 2017 for a period of sixty
27 (60) days up to and including March 17, 2017.

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1. Discovery Cut-Off

The discovery cut-off shall be extended from January 16, 2017 for a period of sixty (60) days up to and including March 17, 2017.

2. Amending the Pleadings and Adding Parties

The deadline to amend the pleadings and parties has closed. No such request to amend the pleadings or add parties is requested

3. Expert Disclosure

The deadline to name initial experts disclosures has closed. No such request to name experts is requested.

4. Dispositive Motions

In accordance with Local Rule 26-1(e)(4), the last day for filing dispositive motions including, but not limited to motions for summary judgement, shall be extended from February 15, 2017 to April 17, 2017 (April 16, 2017 falls on a Sunday).

5. Pre-Trial Order

In accordance with Local Rule 26-1(e)(5), the last day to file a Joint Pre-Trial Order, including any disclosures pursuant to FRCP 26(a)(3), shall be extended from March 17, 2017 to May 17, 2017. In the event dispositive motions are filed, the date for filing the Joint Pre-Trial Order shall be suspended until thirty (30) days after the decision on the dispositive motions or upon further order by the Court extending the time period in which to file the Joint Pre-Trial Order.

6. Trial and Calendar Call

No trial has been set in this matter.

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III. CONCLUSION

For the foregoing reasons, Monte Bello respectfully requests that the Court grant its requested relief, extending the current discovery deadlines.

DATED this 16th day of January, 2017.

ALVERSON TAYLOR
MORTENSEN & SANDERS

By: /s/ Adam R. Knecht, Esq.
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Las Vegas, NV 89117
*Attorneys for Defendant
Monte Bello HOA, Inc.*

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED: 1-25-2017

1 5. Notwithstanding all parties have not answered in this case, a Discovery Plan and
2 Scheduling Order was entered on August 15, 2016 (Doc. 23), wherein Monday, January 16, 2017
3 was established as the lost day to complete discovery.

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5 served its initial disclosures on January 11, 2017.

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5 concerns and my inability to contact Monte Bello's 30(b)(6) witness regarding the deposition
6 noticed by BANA. Due to the circumstances, it was agreed between counsel for BANA and me
7 that I would prepare a stipulation to extend discovery from January 16, 2017 for a period of sixty
8 (60) days up to and including March 17, 2017.

9 17. It was also agreed that all documents required under Fed. R. Civ. P. 26(a)(1)(A)
10 and all discovery previously propounded by BANA would be produced and/or responded to by
11 January 25, 2017.

12 18. Accordingly, I prepared the stipulation to extend discovery and sent it to all
13 counsel. Currently, despite various emails and voice messages, I have not heard from Bellaria or
14 ATC regarding the stipulation, thus necessitating the instant motion.

15 19. The remaining discovery needed in this litigation includes various parties' initial
16 disclosures and/or supplements thereto. Additionally, upon full disclosure of initial disclosures,
17 the parties should be allowed to fully respond to written discovery propounded by BANA. It is
18 anticipated that BANA will conduct the continued depositions of Bellaria, Monte Bello, and
19 ATC, which have not been completed.

20 20. The office addresses and telephone numbers of the movant and other affected
21 parties is as follows:

22 ALVERSON, TAYLOR,
23 MORTENSEN & SANDERS
24 Adam R. Knecht, Esq.
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Attorneys for ATC Assessment Collection Group, LLC

21. I certify that the facts stated above are true and correct to the best of my knowledge and belief.


ADAM KNECHT, ESQ.

SUBSCRIBED and SWORN to before
me this 16 day of January, 2017.


NOTARY PUBLIC

