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15 Attorneys for the Bank of New York Mellon f/k/a  
16 The Bank of New York, as Trustee for the  
17 Certificateholders CWALT, Inc., Alternative Loan  
18 Trust 2006-OA21, Mortgage Pass-Through  
19 Certificates, Series 2006-OA21

20  
21 **UNITED STATES DISTRICT COURT**  
22 **DISTRICT OF NEVADA**

23  
24 THE BANK OF NEW YORK MELLON FKA  
25 THE BANK OF NEW YORK, AS TRUSTEE  
26 FOR THE CERTIFICATEHOLDERS CWALT,  
27 INC., ALTERNATIVE LOAN TRUST 2006-  
28 OA21, MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2006-OA21,

1 Plaintiffs,

2 vs.

3 SOUTHERN HIGHLANDS COMMUNITY  
4 ASSOCIATION; GREY SPENCER DR TRUST;  
5 ALESSI & KOENIG, LLC,

6 Defendants.

7 Case No.: 2:16-cv-00523-JCM-CWH

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9  
10 **STIPULATION AND ORDER OF**  
11 **DISMISSAL WITHOUT PREJUDICE AS**  
12 **TO ALL CLAIMS AGAINST SOUTHERN**  
13 **HIGHLANDS COMMUNITY**  
14 **ASSOCIATION**

1 GREY SPENCER DR TRUST,

2 Counterclaimant,

3 vs.

4 THE BANK OF NEW YORK MELLON FKA  
5 THE BANK OF NEW YORK, AS TRUSTEE  
6 FOR THE CERTIFICATEHOLDERS CWALT,  
7 INC., ALTERNATIVE LOAN TRUST 2006-  
8 OA21, MORTGAGE PASS-THROUGH  
9 CERTIFICATES, SERIES 2006-OA21,

8 Counterdefendant.

9  
10 Plaintiff the Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the  
11 Certificateholders CWALT, Inc., Alternative Loan Trust 2006-OA21, Mortgage Pass-Through  
12 Certificates, Series 2006-OA21 (**BNYM**) and defendant Southern Highlands Community Association  
13 (**Southern Highlands**) through their respective counsel, stipulate as follows.

14 1. All claims asserted by BNYM against Southern Highlands will be dismissed without  
15 prejudice, each side to bear its own fees and costs.

16 2. Should BNYM prevail on its claim against defendant Grey Spencer Dr Trust (**Grey**  
17 **Spencer**) pursuant to Bourne Valley Court Tr. v. Wells Fargo Bank, N.A., 832 F.3d 1154 (9th Cir.  
18 2016), cert. denied 582 U.S. --- (June 26, 2017), and obtain a judgment preserving its interest in the  
19 deed of trust at issue in BNYM's complaint, upon the exhaustion of all appeals, the dismissal of the  
20 claims against Southern Highlands will become "with prejudice."

21 3. Should BNYM not prevail on its claim against Grey Spencer, upon the exhaustion of all  
22 appeals, BNYM will have six months from the date of any such final order to reinitiate claims against  
23 Southern Highlands. Should BNYM not reinitiate its claims against Southern Highlands in that time  
24 period, the dismissal of the claims against Southern Highlands will become "with prejudice."

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1           4. Any statute of limitations on any and all claims against Southern Highlands shall be  
2 tolled from the date the complaint was filed, on March 9, 2016, until the expiration of the six-month  
3 period described in the preceding paragraph.

4           Dated this 21st day of July, 2017.

5           **ALVERSON, TAYLOR, MORTENSEN & SANDERS**

6           /s/Kurt R. Bonds, Esq.

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14           Community Association

5           **AKERMAN LLP**

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14           Attorneys for Plaintiff

13           **ORDER**

14           **IT IS SO ORDERED.**

16             
17           \_\_\_\_\_  
18           **UNITED STATES DISTRICT JUDGE**

19           October 3, 2017  
20           DATED: \_\_\_\_\_

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 28<sup>th</sup> day of September, 2017, service of the foregoing **STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE AS TO ALL CLAIMS AGAINST SOUTHERN HIGHLANDS COMMUNITY ASSOCIATION**, was made pursuant to FRCP 5(b) and electronically transmitted to the Clerk's Office using the CM/ECF system for filing and transmittal to all interested parties.

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