

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 US BANK NATIONAL ASSOCIATION,)
4)
5 Plaintiff,)
6 vs.)
7 BDJ INVESTMENTS, LLC, et al.,)
8 Defendants.)
9)

Case No.: 2:16-cv-00866-GMN-PAL

ORDER

10 Pending before the Court is a Motion for Demand for Security of Costs (ECF No.
11 18) filed by Defendant BDJ Investments, LLC (“Defendant”), to which Plaintiff US Bank
12 National Association, as trustee for Merrill Lynch Mortgage Investors Trust, Mortgage
13 Loan Asset Back Certificates Series 2005-A8 (“Plaintiff”), filed a Response (ECF No.
14 20). Plaintiff subsequently filed a Notice of Withdrawal (ECF No. 21) of its opposition
15 to the Motion. For the reasons set forth below, the Motion is granted.¹

16 The Ninth Circuit recognizes that “federal district courts have inherent power to
17 require plaintiffs to post security for costs.” *Simulnet E. Assocs. v. Ramada Hotel*
18 *Operating Co.*, 37 F.3d 573, 574 (9th Cir. 1994). Under Nevada law, “[w]hen a plaintiff
19 in an action resides out of the State, or is a foreign corporation, security for the costs and
20 charges which may be awarded against such plaintiff may be required by the defendant.”
21 NRS § 18.130(1). “After the lapse of 30 days from the service of notice that security is
22 required . . . upon proof thereof, and that no undertaking as required has been filed, the

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24 ¹ Plaintiff also filed a Motion for Extension of Time “request[ing] an extension up until 10 days after the
25 Court issues an order requiring [deposit of the] bond.” (Mot. Ext. of Time 2:5–6, ECF No. 25). It appears
that Plaintiff mistakenly believes that it must post a cost bond within thirty days from the date the Motion
for Demand for Security of Costs was filed. (See *id.* 1:24–2:4). However, the deadline to post a cost bond
is set by a court’s order requiring the bond, not the motion requesting the bond. See NRS § 18.130(1).
Accordingly, the Motion for Extension of Time is denied as moot.

1 court or judge may order the action to be dismissed.” NRS § 18.130(4). It is the policy of
2 the United States District Court for the District of Nevada to enforce the requirements of
3 NRS § 18.130 in diversity actions. See, e.g., Feagins v. Trump Org., No. 2:11-cv-01121-
4 GMN, 2012 WL 925027, at *1 (D. Nev. Mar. 19, 2012).

5 Because Plaintiff resides outside of Nevada, (Compl. ¶ 1, ECF No. 1), the Court
6 finds that it is appropriate to require Plaintiff to post a security bond of \$500.00 in this
7 matter pursuant to NRS § 18.130.

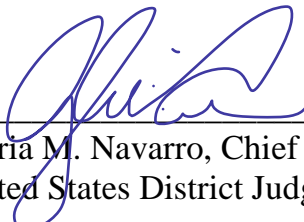
8 **IV. CONCLUSION**

9 **IT IS HEREBY ORDERED** that the Motion Demanding Security of Costs (ECF
10 No. 18) is **GRANTED**.

11 **IT IS FURTHER ORDERED** that Plaintiff must submit a bond pursuant to this
12 Order in the amount of \$500.00 as to Defendant. Failure to do so within thirty days of
13 the filing date of this Order shall constitute grounds for dismissal.

14 **IT IS FURTHER ORDERED** that the Motion for Extension of Time (ECF No.
15 25) is **DENIED as moot**.

16 **DATED** this 28 day of June 2016.

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21 Gloria M. Navarro, Chief Judge
22 United States District Judge
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