1
2
3
4   UNITED STATES DISTRICT COURT
5   DISTRICT OF NEVADA
6   * * *
7   THE BANK OF NEW YORK MELLON,   Case No. 2:16-cv-1303-KJD-NJK
8   Plaintiff,   **ORDER**
9   v.
10 HILLCREST AT SUMMIT HILLS
    HOMEOWNERS ASSOCIATION et al.,
11
                             Defendants.
12
13   Plaintiff Bank of New York Mellon filed its first amended complaint on April 5, 2017.
14 The complaint listed two separate homeowners associations as defendants: Hillcrest at Summit
15 Hills Homeowners Association and Hillcrest Homeowners Association. The bank served
16 defendant Hillcrest at Summit Hills Homeowners Association, albeit eight days after the ninety-
17 day time period for service expired. To date, the bank has not served Hillcrest Homeowners
18 Association. On July 12, 2017, the Court entered a notice of intent to dismiss the complaint
19 under FRCP 4(m) for failure to serve the two homeowners associations. ECF No. 64. Bank of
20 New York Mellon responded to the Rule 4(m) notice and requested a retroactive extension to
21 serve Hillcrest at Summit Hills Homeowners Association. ECF No. 66. Magistrate Judge Koppe
22 granted the extension. See ECF No. 69. As for Hillcrest Homeowners Association, the bank
23 admitted that it inadvertently left both associations in the caption of its amended complaint even
24 though the bank intended to replace Hillcrest Homeowners Association entirely. ECF No. 66.
25 ///
26 ///
27 ///
28 ///

1 Bank of New York Mellon admits that it did not serve the summons and complaint on

2 Hillcrest Homeowners Association within the time allotted by the Federal Rules of Civil

3 Procedure, and it will not suffer prejudice if the Court dismisses that association. Therefore, the

4 action against defendant Hillcrest Homeowners Association only is dismissed without prejudice.

5 IT IS SO ORDERED.

6   DATED this 15th day of July 2019.

7

8 _____
     The Honorable Kent J. Dawson

9   United States District Judge

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28