

1 WRIGHT, FINLAY & ZAK, LLP  
2 Edgar C. Smith, Esq.  
3 Nevada Bar No. 5506  
4 Aaron D. Lancaster, Esq.  
5 Nevada Bar No. 10115  
6 [alancaster@wrightlegal.net](mailto:alancaster@wrightlegal.net)  
7 7785 W. Sahara Ave., Suite 200  
8 Las Vegas, NV, 89117  
9 (702) 475-7967; Fax: (702) 946-1345  
10 *Attorneys for Plaintiff, Bank of America, N.A.*

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

BANK OF AMERICA, N.A.

Case No.: 2:16-cv-01600

Plaintiff,

vs.

CASCADE RESEARCH PARTNERS, LLC, a  
Nevada limited liability company; VIEW OF  
BLACK MOUNTAIN HOMEOWNERS  
ASSOCIATION, a Nevada non-profit company;  
RED ROCK FINANCIAL SERVICES, LLC, a  
Delaware limited liability company; and DOES  
I through X, and ROE CORPORATIONS I  
through X, inclusive,

**STIPULATION AND ORDER FOR  
LEAVE OF COURT FOR PARTIES TO  
AMEND COMPLAINT AND  
COUNTERCLAIMS**

Defendants.

Pursuant to Rule 15 of the Federal Rules of Civil Procedure and Local Rule 15-1 Plaintiff, Bank of America, N.A. ("BANA"), through its counsel of record, Edgar C. Smith, Esq. and Aaron D. Lancaster, Esq., Cascade Research Partners, LLC ("Cascade"), through its counsel of record, Michael N. Beede, Esq., View of Black Mountain Homeowners Association ("HOA"), through its counsel of record Amber M. Williams, Esq., and Red Rock Financial Services, LLC, through its counsel of record David R. Koch, Esq. and Steven B. Scow, Esq. submit this Stipulation and Order for Leave of Court for parties to file amended pleadings, including the Plaintiff filing an Amended Complaint to reassert claims against the HOA related to the

1 completion of the NRED Mediation. A copy of the Plaintiff's proposed amended pleading is  
2 attached as Exhibit 1.

3 **A. INTRODUCTION**

4 On February 28, 2017, the Court entered Order [ECF No. 48] pursuant to HOA's Motion  
5 to Dismiss [ECF No. 17]. Specifically, the Order granted the HOA's Motion to Dismiss  
6 regarding the following causes of action: (1) injunctive relief; (2) wrongful foreclosure; (3)  
7 negligence; (4) negligence per se; (5) breach of contract; (6) misrepresentation; and (7) tortious  
8 interference with contract. All of the above causes of action, except injunctive relief, were  
9 dismissed based NRS 38.310, and that these claims must first be submitted to mediation before  
10 proceeding with a civil action.

11 At the time the First Amended Complaint was filed on August 2, 2016 [ECF No. 7], and  
12 at the time all of the briefing had been completed regarding the HOA's Motion to Dismiss [ECF  
13 No. 17] the NRED Mediation had not been completed. Since the briefing relating to the HOA's  
14 Motion to Dismiss was before the Court the parties have participated in an NRED Mediation.  
15 The NRED Mediation was completed on January 4, 2017. The mediation was unsuccessful as  
16 no agreement was reached at the mediation. BANA therefore requests leave to amend to reassert  
17 causes of action against the HOA based on the completion of the NRED Mediation.

18 **B. STANDARD FOR LEAVE TO AMEND**

19 FRCP 15 permits a party to amend its pleading by leave of court and states that "the court  
20 should freely give leave when justice so requires." FRCP 15(a)(2). The Ninth Circuit has  
21 approved of amendment in similar situations, stating that "a court must be guided by the  
22 underlying purpose of Rule 15 to facilitate decision on the merits, rather than on the pleadings or  
23 technicalities." *United States v. Webb*, 655 F.2d 977, 979 (9th Cir.1981); *Lopez v. Smith*, 203  
24 F.3d 1122, 1127 (9<sup>th</sup> Cir.2000). Although district courts have discretion regarding whether to  
25 grant leave to amend, such leave should be granted with "extreme liberty." *Morongo Band of*  
26 *Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9<sup>th</sup> Cir.1990).

### C. LEGAL SUPPORT

Applying these well established principles, the Court should grant parties' request for leave to amend. Since filing the First Amended Complaint, the filing of the HOA's Motion to Dismiss, the parties have participated in an NRED Mediation. The Real Estate Division is ill-equipped to handle the onslaught of filings for mediation resultant from HOA litigation, resulting in substantial delay. The mediation is not complete and no agreement was reached at the mediation.

The Plaintiff's proposed Second Amended Complaint attached as Exhibit 1 reasserts those causes of action against the HOA that were dismissed pursuant to the Order {ECF No. 48}, as BANA is challenging the validity of the lien sale conducted by the HOA and its agents. The parties therefore request that the Court grant its request for leave to file amended pleadings. Allegations in the original complaint were also modified to make the allegations consistent with the proposed changes.

# WRIGHT FINLAY & ZAK

THE LAW OFFICE OF MIKE BEEDE, PLLC

By: /s/ *Aaron D. Lancaster, Esq.*

Aaron D Lancaster, Esq.  
7785 W. Sahara Ave, Suite 200  
Las Vegas, NV 89117  
*Plaintiff, Bank of America, N.A.*

By: /s/

Michael N. Beede, Esq.  
2470 St. Rose Parkway, Suite 201  
Las Vegas, NV 89074  
*Attorneys for Defendant Cascade Research  
Partners, LLC*

LIPSON, NEILSON, COLE, SELTZER &  
GARIN, P.C.

KOCH & SCOW LLC

/s/  
Amber M. Williams, Esq.  
9900 Covington Cross Drive, Suite 120  
Las Vegas, NV 89144  
*Attorney for Defendant View of Black  
Mountain Homeowners Association*

By: /s/  
David R. Koch, Esq.  
Steven B. Scow, Esq.  
Brody R. Wright, Esq.  
11500 South Eastern Avenue, Suite 210  
Henderson, NV 89052  
*Attorneys for Red Rock Financial Services,  
LLC*

## **ORDER**

## IT IS SO ORDERED.

Dated this 24th day of July, 2017.

*Christopher*

---

UNITED STATES MAGISTRATE JUDGE