

1 ARIEL E. STERN, ESQ.  
 Nevada Bar No. 8276  
 2 SCOTT R. LACHMAN, ESQ.  
 Nevada Bar No. 12016  
 3 **AKERMAN LLP**  
 1635 Village Center Circle, Suite 200  
 Las Vegas, Nevada 89134  
 4 Telephone: (702) 634-5000  
 Facsimile: (702) 380-8572  
 5 Email: ariel.stern@akerman.com  
 Email: scott.lachman@akerman.com  
 6

7 Attorneys for Plaintiff  
 Bank of America, N. A. Successor by  
 Merger to BAC Homeloans Servicing,  
 8 LP fka Countrywide Home Loans  
 Servicing, L.P.  
 9

10 **UNITED STATES DISTRICT COURT**  
 11 **DISTRICT OF NEVADA**

**AKERMAN LLP**  
 1160 TOWN CENTER DRIVE, SUITE 330  
 LAS VEGAS, NEVADA 89144  
 TEL.: (702) 634-5000 – FAX: (702) 380-8572

12 BANK OF AMERICA, N.A., SUCCESSOR BY  
 13 MERGER TO BAC HOME LOANS  
 14 SERVICING, LP FKA COUNTRYWIDE HOME  
 LOANS SERVICING, L.P.,

Case No.: 2:16-cv-02192-MMD-CWH

**STIPULATION AND  
 PROTECTIVE ORDER**

15 Plaintiff,

16 vs.

17 CARSON RANCH EAST HOMEOWNERS  
 18 ASSOCIATION; PREMIER ONE HOLDINGS  
 INC.; WEISUN PROPERTY INC., AND  
 19 ABSOLUTE COLLECTION SERVICES, LLC,

20 Defendants.

21 Bank of America, N.A., successor by merger to BAC Home Loans Servicing, LP FKA  
 22 Countrywide Home Loans Servicing, L.P. and Absolute Collection Services,<sup>1</sup> by and through their  
 23 undersigned counsel, stipulate to the following protective order:

24 To expedite the flow of discovery, facilitate the prompt resolution of disputes over  
 25 confidentiality, adequately protect material claimed to be confidential, and ensure protection is  
 26 afforded only to material so designated, it is, pursuant to the Court's authority under Federal Rule of

27 \_\_\_\_\_  
 28 <sup>1</sup> Defendants Carson Ranch East Homeowners Association and Weisun Property Inc. were served but have not appeared. Default was entered against Premier One Holdings. ECF No. 41.

1 Civil Procedure 26(c), **ORDERED** this Protective Order shall govern the disclosure, handling and  
2 disposition of documents in this litigation as follows:

3 1. **Application.**

4 1.1 This Protective Order shall govern any document, information or other  
5 material that is designated as containing "Confidential Information" as defined herein, and is  
6 produced in connection with this litigation by any person or entity (the **producing party**), whether  
7 in response to a discovery request, subpoena or otherwise, to any other person or entity (the  
8 **receiving party**) regardless of whether the person or entity producing or receiving such information  
9 is a party to this litigation.

10 2. **Definitions.**

11 2.1 Confidential Information. "Confidential Information" shall mean and include,  
12 without limitation, any non-public information that concerns or relates to the following areas:  
13 confidential proprietary information, trade secrets, practices and procedures, personal financial  
14 information, commercial, financial, pricing, budgeting, and/or accounting information, information  
15 about existing and potential customers, marketing studies, performance projections, business  
16 strategies, decisions and/or negotiations, personnel compensation, evaluations and other employment  
17 information, and confidential proprietary information about affiliates, parents, subsidiaries and third-  
18 parties with whom the parties to this action have or have had business relationships.

19 2.2 Documents. As used herein, the term "documents" includes all writings,  
20 records, files, drawings, graphs, charts, photographs, e-mails, video tapes, audio tapes, compact  
21 discs, electronic messages, other data compilations from which information can be obtained and  
22 other tangible things subject to production under the Federal Rules of Civil Procedure.

23 3. **Initial Designation.**

24 3.1 Good Faith Claims. Claims of confidentiality will be made only with respect  
25 to documents, other tangible things and information that the asserting party has a good faith belief  
26 are within the definition set forth in subparagraph 2.1 of this Protective Order. Objections to such  
27 claims made pursuant to paragraph 5, below, shall also be made only in good faith.  
28



1 Information needs to be made in advance of the inspection. For purposes of such inspection, all  
2 material produced shall be considered as Confidential Information. If the inspecting party selects  
3 specified documents to be copied, the producing party shall designate Confidential Information in  
4 accordance with subparagraph 3.2 at the time the copies are produced.

5 3.5 Deposition Transcripts. The party asserting confidentiality shall state on the  
6 record the portions it deems confidential. The failure to designate testimony on the record as  
7 confidential shall be a waiver unless the designating party notifies all other parties and files a motion  
8 to designate the testimony as confidential within 5 days of the notification.

9 3.6 Inadvertent Failure to Designate. Inadvertent failure to identify documents or  
10 things as "Confidential" pursuant to this Protective Order shall not constitute a waiver of any  
11 otherwise valid claim for protection, provided that the provisions of this paragraph are satisfied. If  
12 the designating party discovers that information should have but was not designated "Confidential"  
13 or of the designating party receives notice that would enable the designated party to learn that it has  
14 disclosed such information, the designating party must immediately notify all other parties. In such  
15 event, within thirty (30) days of notifying all other parties, the designating parties must also provide  
16 copies of the "Confidential" information designated in accordance with this Protective Order. After  
17 receipt of such re-designated information, the "Confidential" information shall be treated as required  
18 by this Protective Order, and the receiving party(ies) shall promptly, and in no event more than  
19 fourteen (14) calendar days from the receipt of the re-designated information, return to the  
20 designated party all previously produced copies of the same unlegended documents or things. The  
21 designating party and the parties may agree to alternative means. The receiving party(ies) shall  
22 receive no liability, under this Protective Order or otherwise, for any disclosure of information  
23 contained in unlegended documents or things occurring before the receiving party was placed on  
24 notice of the designating party's claims of confidentiality.

25 4. **Designations by Another Party.**

26 4.1 Notification of Designation. If a party other than the producing party believes  
27 that a producing party has produced a document that contains or constitutes Confidential Information  
28 of the non-producing party, the non-producing party may designate the document as Confidential

1 Information by so notifying all parties in writing within fourteen (14) days of service of the  
2 document.

3 4.2 Return of Documents; Non-disclosure. Whenever a party other than the  
4 producing party designates a document produced by a producing party as Confidential Information  
5 in accordance with subparagraph 4.1, each party receiving the document shall either add the  
6 Confidential Information designation in accordance with subparagraph 3.2 or substitute a copy of the  
7 document bearing such designation for each copy of the document produced by the producing party.  
8 Each party shall destroy all undesignated copies of the document or return those copies to the  
9 producing party, at the direction of the producing party. No party shall disclose a produced  
10 document to any person, other than the persons authorized to receive Confidential Information under  
11 subparagraph 7.1, until after the expiration of the fourteen (14) day designation period specified in  
12 subparagraph 4.1. If during the fourteen (14) day designation period a party discloses a produced  
13 document to a person authorized to receive Confidential Information under subparagraph 7.1, and  
14 that document is subsequently designated as Confidential Information in accordance with  
15 subparagraph 4.1, the disclosing party shall cause all copies of the document to be destroyed or  
16 returned to the producing party, at the direction of the producing party. The party may thereafter  
17 disclose a copy of the document that has been marked as Confidential Information by the  
18 designating party, in accordance with subparagraphs 3.2 and 7.1.

19 5. **Objections to Designations.** Any party objecting to a designation of Confidential  
20 Information, including objections to portions of designations of multi-page documents, shall notify  
21 the designating party and all other parties of the objection in writing up to and through trial of the  
22 matter. This notice must specifically identify each document that the objecting party in good faith  
23 believes should not be designated as Confidential Information and provide a brief statement of the  
24 grounds for such belief. In accordance with the Federal Rules of Civil Procedure governing  
25 discovery disputes, the objecting and the designating parties thereafter shall confer within ten (10)  
26 days after the date of such objection in an attempt to resolve their differences. If the parties are  
27 unable to resolve their differences, the objecting party shall have twenty one (21) days after the  
28 conference concludes to file with the Court a motion to remove the Confidential Information. If an

1 objection is served within forty-two (42) days of trial, the objecting party must file its motion to  
2 remove the Confidential Information designation within half of the remaining time before trial, and  
3 the meet-and-confer period shall be shortened accordingly. Where a party authored, created, owns,  
4 or controls a document, information or other material that another party designates as Confidential  
5 Information, the party that authored, created, owns, or controls the Confidential Information may so  
6 inform the objecting party and thereafter shall also be considered a designating party for purposes of  
7 this paragraph.

8 All documents, information and other materials initially designated as Confidential  
9 Information shall be treated as such in accordance with this Protective Order unless and until the  
10 Court rules otherwise, except for deposition transcripts and exhibits initially considered as  
11 containing Confidential Information under subparagraph 3.5, which will lose their confidential status  
12 after twenty-one (21) days unless so designated as Confidential Information. If the Court rules that a  
13 designation should not be maintained as to a particular document, the producing party shall, upon  
14 written request by a party, provide that party a copy of that document without the designation  
15 described in subparagraph 3.2.

16 If an objecting party elects not to make such a motion with respect to documents within  
17 twenty one (21) days after the conference, information or other materials to which an objection has  
18 been made, the objection shall be deemed withdrawn. The designating party shall have twenty one  
19 (21) days to respond to the objecting party's motion. If no response is filed by the designating party  
20 within twenty one (21) days, the designating party shall be deemed to have consented to the  
21 objecting party's motion pursuant to LR 7-2(d).

22 6. **Custody.** All Confidential Information and any and all copies, extracts and  
23 summaries thereof, including memoranda relating thereto, shall be retained by the receiving party in  
24 the custody of counsel of record, or by persons to whom disclosure is authorized under subparagraph  
25 7.1.

26 7. **Handling Prior to Trial.**

27 7.1 Authorized Disclosures. Confidential Information shall be disclosed by the  
28 receiving party only to the following persons:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- a. Counsel for the parties in this litigation, including their associates, clerks, paralegals, and secretarial personnel;
- b. Qualified persons taking testimony in this litigation involving such Confidential Information, and necessary stenographic, videotape and clerical personnel;
- c. Experts and their staff who are retained by counsel as expert witnesses for a party in this litigation;
- d. Experts and their staff who are consulted by counsel for a party in this litigation;
- e. Parties to this litigation, limited to the named party and, if that party is a corporate entity, a limited number of employees of the corporate entity and its insurers;
- f. Designated in-house counsel and a limited number of assistants, administrative or otherwise;
- g. Outside vendors employed by counsel for copying, scanning and general handling of documents;
- h. Any person of whom testimony is taken regarding the Confidential Information, except that such person may only be shown Confidential Information during his/her testimony, and may not retain a copy of such Confidential Information; and
- i. This Court and this Court's staff, subject to the Court's processes for filing materials under seal.

Such disclosures are authorized only to the extent necessary to investigate, prosecute, or defend the litigation.

Confidential Information may not be disclosed to persons under subparagraphs (c) or (d) until the receiving party has obtained a written acknowledgment from the person receiving Confidential Information, in the form of the Declaration attached hereto as Exhibit A, that he or she has received a copy of this Protective Order and has agreed to be bound by it. A party who discloses

1 Confidential Information in accordance with subparagraph 7.1 shall retain the written  
2 acknowledgment from each person receiving Confidential Information, shall maintain a list of all  
3 persons to whom a receiving party has disclosed Confidential Information and identify what  
4 documents have been disclosed, and shall furnish the written acknowledgments and disclosure list to  
5 opposing counsel as follows: (i) for a person under subparagraph (c), within thirty (30) days after the  
6 person signs the Declaration; and (ii) for a person under subparagraph (d), within thirty (30) days  
7 after the matter is finally concluded. Disclosure of Confidential Information to this Court, including  
8 judicial staff, shall be made in accordance with subparagraph 7.4 of this Protective Order.

9           7.2 Unauthorized Disclosures. All persons receiving Confidential Information  
10 under the terms of this Protective Order are under the jurisdiction of the state courts and U.S. federal  
11 courts located in Nevada for all matters arising from the improper disclosure or use of such  
12 information. If Confidential Information is disclosed to any person other than in the manner  
13 authorized by this Protective Order, the party or person responsible for the disclosure, and any other  
14 party or person who is subject to this Protective Order and learns of such disclosure, shall  
15 immediately bring such disclosure to the attention of the designating party. Without prejudice to  
16 other rights and remedies of the designating party, the responsible party or person shall make every  
17 effort to obtain and return the Confidential Information and to prevent further disclosure on its own  
18 part or on the part of the person who was the unauthorized recipient of such information.

19           7.3 Court Filings. In the event any Confidential Information must be filed with the  
20 Court prior to trial, the proposed filing shall be accompanied by a motion to file the Confidential  
21 Information under seal that complies with Local Rule 10-5(b) and a proposed order, and the  
22 application and proposed order shall be directed to the judge to whom the Confidential Information  
23 is directed. This provision is applicable to briefs, memoranda, and other filings which quote,  
24 summarize, or describe Confidential Information.

25           8. **Care in Storage.** Any person in possession of Confidential Information produced by  
26 another party shall exercise reasonable and appropriate care with regard to the storage, custody,  
27 copying, and use of such information to ensure that the confidential and sensitive nature of same is  
28 maintained.

1           9.       **Handling During Trial.** Confidential Information that is subject to this Order may be  
2 marked and used as trial exhibits by either party, subject to terms and conditions as imposed by the  
3 Court upon application by any party.

4           10.       **No Implied Waivers.** This Protective Order shall not be interpreted as a waiver of  
5 the right to object, under applicable law, to the furnishing of information in response to discovery  
6 requests or to object to a requested inspection of documents or facilities. Parties producing  
7 Confidential Information in this litigation are doing so only pursuant to the terms of this Protective  
8 Order. The taking of any action in accordance with the provisions of this Protective Order shall not  
9 be interpreted as a waiver of any claim or position or defense in this action, or any other actions.

10           11.       **No Admission.** The designation of any item as Confidential Information shall not be  
11 construed as an admission that such material, or any testimony concerning such material, would be  
12 admissible in evidence in this litigation or in any other proceeding.

13           12.       **Inadvertent Disclosure.** Nothing in this Protective Order abridges applicable law  
14 concerning inadvertent disclosure of a document that the Disclosing Party believes contains  
15 attorney-client communications, attorney work product, or otherwise privileged information. If a  
16 party inadvertently discloses documents or information subject to a claim of privilege or work  
17 product protection, such disclosure will not waive otherwise applicable claims of privilege or work  
18 product protection under applicable law. Upon discovery by the Receiving Party, or receipt of  
19 written notice from the Disclosing Party identifying privileged or protected Documents that were  
20 inadvertently produced, the receiving party shall within seven (7) business days either: (a) return or  
21 certify the destruction of all such documents, all copies, and any work product or portions of any  
22 work product containing or reflecting the contents of the subject materials; or (b) after attempting to  
23 resolve any dispute with opposing counsel informally, file a motion to challenge the assertion of  
24 privilege and tender the subject documents for in camera review with the motion. The moving party  
25 shall do nothing to compromise the privilege claim until the Court rules on said motion and the  
26 opportunity for appellate review is exhausted or the issue is otherwise resolved.

27           13.       **Parties' Own Documents.** This Protective Order shall in no way restrict the parties  
28 in their use of their own documents and information, and nothing in this Protective Order shall

1 preclude any party from voluntarily disclosing its own documents or information to any party or  
2 nonparty.

3 14. **Motion by Third Party to Compel Production of Confidential Information.** If any  
4 third party subpoenas Confidential Information from a party to this action or moves to compel a  
5 party to this action to produce any such information, such party shall immediately notify the parties  
6 who originally produced and/or designated such information that a subpoena has been served or a  
7 motion has been made in order to allow the parties who originally produced and/or designated such  
8 information the opportunity to seek a protective order or oppose the motion or application. If, within  
9 thirty (30) days after receiving notice of a subpoena seeking Confidential Information from a  
10 receiving party, the party who originally produced and/or designated such information fails to move  
11 for a protective order, the party subject to the subpoena may produce said information. In addition, if  
12 a party is ordered to produce Confidential Information covered by this Protective Order, then notice  
13 and, if available, a copy of the order compelling disclosure shall immediately be given the parties  
14 who originally produced and/or designated such information. Nothing in this Protective Order shall  
15 be construed as requiring the party who is ordered to produce such Confidential Information to  
16 challenge or appeal any order requiring the production of such information or to subject  
17 himself/herself to any penalty for non-compliance with any legal process or seek any relief from the  
18 Court.

19 15. **No Effect on Other Rights.** This Protective Order shall in no way abrogate or  
20 diminish any pre-existing contractual, statutory, or other legal obligations or rights of any party with  
21 respect to Confidential Information.

22 16. **Modification.** In the event any party hereto seeks a Court order to modify the terms  
23 of this Protective Order, or seeks a protective order which incorporates the terms and conditions of  
24 this Protective Order said party shall make such request by written stipulation or noticed motion to  
25 all parties that must be served and filed in accordance with local court rules.

26 17. **Handling Upon Conclusion of Litigation.** All parties, counsel, and persons to whom  
27 disclosure was made agree to return all Confidential Information to the designating party within  
28 thirty (30) days of the conclusion of litigation between the parties, including final appellate action or

**AKERMAN LLP**

1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 – FAX: (702) 380-8572

1 the expiration of time to appeal or seek further review. In addition, counsel shall certify in writing  
2 that all such Confidential Information have been returned. Counsel for each party also shall contact  
3 each person to whom that party has provided a copy of any Confidential Information and request the  
4 documents be returned. In lieu of returning Confidential Information, the person or party in  
5 possession of such information may elect to destroy it. If the person or party in possession of  
6 Confidential Information elects to destroy it rather than return it, that person or party must notify the  
7 designating party in writing of the destruction of the information within ninety (90) days of the  
8 conclusion of litigation between the parties, including final appellate action or the expiration of time  
9 to appeal or seek further review.

10 ///

11  
12 ///

13  
14 ///

15  
16 ///

17  
18 ///

19  
20 ///

21  
22 ///

23  
24 ///

25  
26 ///

27  
28 ///

1           18. **Survival of the Terms of this Protective Order.** Even after the termination of this  
2 litigation, the confidentiality obligations imposed by this Protective Order shall remain in effect until  
3 a Designating Party otherwise in writing or a court order otherwise directs.

4  
5           DATED January 2, 2018.

**AKERMAN LLP**

6  
7           /s/ Scott R. Lachman

8           \_\_\_\_\_  
9           ARIEL E. STERN, ESQ.  
10           Nevada Bar No. 8276  
11           SCOTT R. LACHMAN, ESQ.  
12           Nevada Bar No. 12016  
13           1635 Village Center Circle, Suite 200  
14           Las Vegas, Nevada 89134

15           Attorneys for Plaintiff Bank of America, N.A. Successor  
16           by Merger to BAC Homeloans Servicing,  
17           LP fka Countrywide Home Loans  
18           Servicing, L.P.

19           **AND**

20           /s/ Shane D. Cox

21           \_\_\_\_\_  
22           Shane D. Cox, Esq.  
23           Absolute Collection Services, LLC  
24           8440 W. Lake Mead Blvd., Suite 210  
25           Las Vegas, Nevada 89128

26           Attorneys for Absolute Collection Services, LLC

27           **IT IS SO ORDERED.**

28           \_\_\_\_\_  
29           UNITED STATES MAGISTRATE JUDGE

30           DATED: January 4, 2018