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8
 9 **UNITED STATES DISTRICT COURT**
 10 **DISTRICT OF NEVADA**

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11 BANK OF AMERICA, N.A.;

12
 13 Plaintiff,

14 vs.

15 SOLERA AT STALLION MOUNTAIN UNIT OWNERS' ASSOCIATION; SFR INVESTMENTS POOL 1, LLC; and NEVADA ASSOCIATION SERVICES, INC.,

16
 17 Defendants.

Case No.: 2:16-cv-02339-JCM-PAL

BANK OF AMERICA, N.A.'S MOTION TO EXTEND DISCOVERY AND DISPOSITIVE MOTION DEADLINES

(First Request)

18 SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

19
 20 Counter/cross-claimant,

21 v.

22 BANK OF AMERICA, N.A.; PAUL O. PARTON, an individual; CORNELIA A. PARTON, an individual,

23
 24 Counter-Defendant.

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 26 ...

1 Pursuant to LR 6-1 and LR 26-4, plaintiff Bank of America, N.A. (**BANA**) respectfully
2 requests the court briefly extend the expert designation, rebuttal expert designation, interim status
3 report, discovery, dispositive motions, and final pretrial order deadlines. In compliance with the
4 local rules, BANA has attempted in good faith to meet and confer to resolve this dispute prior to
5 filing this motion. See Decl. of Jamie Combs, filed concurrently with this motion.

6 **I. INTRODUCTION AND PROCEDURAL HISTORY.**

7 On October 6, 2016, BANA filed its complaint against Solera at Stallion Mountain Unit
8 Owners' Association (**Solera**), SFR Investments Pool 1, LLC (**SFR**), and Nevada Association
9 Services, Inc. (**NAS**), requesting the court void HOA's foreclosure of its lien and sale of the property
10 to SFR for approximately 3% of the unpaid principal balance of the loan.¹ NAS failed to respond to
11 the complaint and a clerk's default was entered on May 24, 2017.²

12 BANA filed the parties' proposed discovery plan and scheduling order on January 12, 2017.³
13 On January 13, 2017, the court entered the scheduling order⁴ containing the following deadlines:

14	Discovery Cut-Off Date:	July 10, 2017
15	Rule 26(a)(2) Disclosures (Experts):	May 11, 2017
16	Rule 26(a)(2) Rebuttal Experts:	June 14, 2017
17	Interim Status Report:	May 11, 2017
	Dispositive Motions Filing:	August 9, 2017
	Pretrial Order:	September 8, 2017

18 BANA has proceeded with discovery according to the scheduling order. BANA and SFR are
19 in the process of noticing and scheduling depositions. SFR served a notice for the deposition of
20 BANA's corporate representative including numerous overbroad and irrelevant topics. Counsels for
21 BANA and SFR met and conferred, but were unable to come to an agreement on all topics. BANA
22 will be filing a motion for protection to limit SFR's deposition topics and anticipates the parties will
23 need additional time in the discovery period to complete depositions and final discovery.

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¹ See generally Compl. (ECF No. 1).

² See Default (ECF No. 48).

³ See proposed scheduling order (ECF No. 28).

⁴ See scheduling order (ECF No. 30).

1 Additionally, BANA subpoenaed the deposition of the 30(b)(6) witness for Nevada
2 Association Services, Inc. for June 30, 2017. NAS, however, has represented that its witness has no
3 availability for a deposition in this matter until late August. BANA also noticed the deposition of
4 Solera's 30(b)(6) witness for June 27, 2017. Unfortunately, Solera's witness is also unavailable at
5 that time, and will need to reschedule.

6 As such, BANA requests the court extend the unexpired deadlines by 60 days. In an attempt
7 to accommodate both the court's and the parties' schedules, BANA requests additional time to allow
8 for full briefing on the motion for protection as well as the rescheduling of the depositions of the
9 30(b)(6) witness for NAS and Solera. This request for a short extension will not result in any undue
10 delay.

11 **II. DISCOVERY COMPLETED.**

12 BANA served its initial disclosures on January 9, 2017. BANA served interrogatories,
13 request for production of documents, and request for admissions to SFR and Solera on May 18,
14 2017. SFR served interrogatories, request for production of documents, and request for admissions
15 to BANA on June 9, 2017. BANA disclosed its expert on May 11, 2017. BANA noticed the
16 deposition of Solera's 30(b)(6) witness for June 27, 2017, and of NAS's 30(b)(6) witness for June 30,
17 2017. BANA will take the deposition of SFR on June 28, 2017. SFR noticed BANA's deposition
18 for July 10, 2017, but BANA objects to numerous topics in the notice. BANA also served a
19 subpoena duces tecum on NAS on June 1, 2017 seeking its foreclosure file.

20 **III. DISCOVERY TO BE COMPLETED.**

21 BANA is still awaiting responses from SFR and Solera to its discovery. BANA plans to
22 timely serve its responses to SFR's discovery. All depositions were scheduled to take place in the
23 coming weeks, but due to scheduling and availability issues will need to be rescheduled to later in
24 July or August. BANA anticipates additional written discovery might be necessary after the
25 depositions.

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1 **IV. GOOD CAUSE EXISTS TO EXTEND DEADLINES.**

2 There is good cause to extend the unexpired deadlines in the scheduling order because
3 BANA's need to file a motion for protection did not arise until June 9, 2017 when BANA received
4 SFR's notice of deposition for BANA's corporate representative. Additionally, BANA was only
5 notified by NAS of its witness's unavailability on June 12, 2017, and by Solera of its witness's
6 unavailability on June 13, 2017. A party must establish good cause to modify a scheduling order.
7 FED. R. CIV. P. 6(b)(1)(B); LR 26-4. To establish good cause, one must show the party cannot
8 reasonably meet the deadlines despite the diligence of the party seeking the extension. See Coleman
9 v. Quaker Oats Co., 232 F.3d 1271, 1294-95 (9th Cir. 2000); Mendez v. Fiesta Del Norte Home
10 Owners Ass'n, No. 2:15-cv-314-RCJ-NJK, 2016 WL 1643780, at *3 (D. Nev. Apr. 26, 2016). SFR
11 has a pending motion for protective order related to its Rule 30(b)(6) deposition. (ECF No. 29.)

12 BANA is preparing its motion for protective order to seek a ruling on SFR's overbroad
13 deposition topics and will be filing in the coming days. BANA has not delayed in filing this motion
14 as it only received the notice of deposition on June 9, 2017. If the motion is denied, SFR will likely
15 proceed with BANA's deposition on all noticed topics on July 10, 2017. Further, BANA has not yet
16 taken the deposition of SFR, and the sufficiency of SFR's testimony remains to be seen. The current
17 discovery cut-off does not allow sufficient time to conduct follow-up discovery.

18 Additional good cause exists because NAS only recently informed BANA's counsel that it
19 would not be available for a deposition until late August, 2017, well after discovery would already
20 be closed. Further, Solera's witness is also unavailable on the date BANA set its deposition, and the
21 parties will need to coordinate rescheduling of this deposition as well.

22 Additional good cause exists because Solera and SFR have not yet responded to BANA's
23 written discovery requests. BANA only recently received NAS's documents on June 16, 2017 when
24 it responded to BANA's subpoena duces tecum.

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1 In sum, additional time is required for BANA to finalize and file its motion for protective
2 order to limit the deposition topics proposed by SFR with respect to its notice to take BANA's Rule
3 30(b)(6) deposition, to take SFR's 30(b)(6) deposition, to re-schedule and take Solera and NAS's
4 Rule 30(b)(6) depositions, and to conduct any necessary follow-up discovery and prepare a motion
5 for summary judgment.

6 **V. PROPOSED SCHEDULE FOR COMPLETION OF DISCOVERY.**

	<u>Current Deadline</u>	<u>Proposed New Deadline</u>
7 Discovery Cut-Off Date:	July 10, 2017	September 8, 2017
8 Dispositive Motions:	August 9, 2017	October 9, 2017
9 Pre-Trial Order:	September 8, 2017	November 7, 2017

10 **VI. CURRENT TRIAL DATE.**

11 No trial date has been set.

12 Dated this 19th day of June, 2017.

13 **AKERMAN LLP**

14 /s/ Jamie K. Combs, Esq.

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21 Attorneys for Plaintiff BANA Bank, N. A.

22 **IT IS SO ORDERED** this 29th day
23 of August, 2017.

24 

25 Peggy A. Leen
26 United States Magistrate Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of June, 2017 and pursuant to FRCP 5, I caused to be served a true and correct copy of the foregoing **BANK OF AMERICA, N.A.'S MOTION TO EXTEND DISCOVERY AND DISPOSITIVE MOTION DEADLINES**, via the court's CM-ECF electronic filing system to the following parties:

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