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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

BANK OF AMERICA, N.A.,

Plaintiff,

v.

SOLERA AT STALLION MOUNTAIN  
UNIT OWNERS' ASSOCIATION, et al.,

Defendants.

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

ORDER


The court conducted a hearing on August 8, 2017, on the parties' Motion for Protective Order (ECF No. 53). Darren Brenner was present on behalf of plaintiff, and Diana Cline Ebron was present on behalf of defendant.

After reviewing the moving and responsive papers and hearing the arguments of counsel at the hearing the court granted Bank of America's motion for protective order (ECF No 53) regarding a Rule 30(b)(6) deposition notice. The court limited the scope of examination as the motion for protective order requested to issues pertaining to the Bank's tender of the HOA super-priority lien in light of the Ninth's Circuit's decision in *Bourne Valley Tr. v. BANA, N.A.*, 832 F.3d 1154 (9<sup>th</sup> Cir. 2016), which is binding on this court. SFR opposed the motion for protective order arguing that banks in other HOA foreclosure cases have provided testimony at trial based on documents not produced in discovery, and on subjects on which the banks have prevented or limited cross-examination of bank Rule 30(b)(6) designees. The court expressly stated that although the court was granting the motion for protective order in light of *Bourne Valley* that, having successfully resisted SFR's discovery on the noticed topics, the Bank would be precluded from using any documents, evidence or testimony not timely disclosed in discovery in motion practice, at hearing or at trial.

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**IT IS ORDERED** that a preclusion order is entered precluding Bank of America from using any documents, evidence or information not timely disclosed, or from calling a witness to supply testimony on information or documents not disclosed, in motion practice, at a hearing or at trial.

DATED this 30th day of August, 2017.

  
PEGGY A. LEEN  
UNITED STATES MAGISTRATE JUDGE