

1 Joel E. Tasca
 Nevada Bar No. 14124
 2 Justin A. Shiroff
 Nevada Bar No. 12869
 3 BALLARD SPAHR LLP
 1980 Festival Plaza Drive, Suite 900
 4 Las Vegas, Nevada 89135
 Telephone: (702) 471-7000
 5 Facsimile: (702) 471-7070
 tasca@ballardspahr.com
 6 shiroffj@ballardspahr.com

7 *Attorneys for Plaintiff The*
Wilmington Trust, N.A., Successor
 8 *Trustee to Citibank, N.A., as*
Trustee f/b/o Holders of Structured
 9 *Asset Mortgage Investments II Inc.,*
Bear Stearns ALT-A Trust 2006-4,
 10 *Mortgage Pass-Through Certificates,*
 11 *Series 2006-4*

12 **UNITED STATES DISTRICT COURT**
 13 **DISTRICT OF NEVADA**

14 WILMINGTON TRUST, N.A.,
 15 SUCCESSOR TRUSTEE TO CITIBANK,
 N.A., AS TRUSTEE F/B/O HOLDERS OF
 16 STRUCTURED ASSET MORTGAGE
 INVESTMENTS II INC., BEAR
 17 STEARNS ALT-A TRUST 2006-4,
 MORTGAGE PASS-THROUGH
 18 CERTIFICATES, SERIES 2006-4

Case No. 2:16-cv-02756-RFB-VCF

**STIPULATED MOTION TO
 EXTEND DISCOVERY DEADLINES
 (SECOND REQUEST)**

19 Plaintiff,

20 vs.

21 SFR INVESTMENTS POOL 1, LLC, a
 Nevada limited liability company;
 22 GIANNA HOMEOWNERS
 ASSOCIATION, a Nevada non-profit
 23 corporation,

24 Defendants.

BALLARD SPAHR LLP
 1980 FESTIVAL PLAZA DRIVE, SUITE 900
 LAS VEGAS, NEVADA 89135
 (702) 471-7000 FAX (702) 471-7070

25
 26
 27
 28

1 GIAVANNA HOMEOWNERS
ASSOCIATION,

2 Third Party Plaintiff,

3 vs.

4 ABSOLUTE COLLECTION SERVICES,
LLC,

5 Third Party Defendant.

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

8 Counter/Cross Claimant,

9 vs.

10
11 WILMINGTON TRUST, N.A.,
SUCCESSOR TRUSTEE TO CITIBANK,
N.A., AS TRUSTEE F/B/O HOLDERS OF
12 STRUCTURED ASSET MORTGAGE
INVESTMENTS II INC., BEAR
13 STEARNS ALT-A TRUST 2006-4,
MORTGAGE PASS-THROUGH
14 CERTIFICATES, SERIES 2006-4;
MASHELLE CLARK aka SHELLY
15 CLARK, an individual,

16 Counter/Cross Defendants.

17
18 Pursuant to Fed. R. Civ. P. 26(a)(2) and 6(b)(a)(1)(A) and LR 26-4,
19 Plaintiff/Counter-Defendant Wilmington Trust, N.A., Successor Trustee to Citibank,
20 N.A., as Trustee F/B/O Holders of Structured Asset Mortgage Investments II Inc.,
21 Bear Stearns ALT-A Trust 2006-4, Mortgage Pass-Through Certificates, Series 2006-
22 4 (the "Trustee"), Defendant/Counterclaimant SFR Investment Pools 1, LLC ("SFR"),
23 Defendant/Third Party Plaintiff Giavanna Homeowners Association (the
24 "Association"), and Third Party Defendant Absolute Collection Services, LLC ("ACS")
25 (together, the "Parties") hereby submit the following Stipulated Motion to Extend
26 Discovery Deadlines.

27 Under the Stipulated Discovery Plan and Scheduling Order [ECF No. 26], as
28 amended by the Stipulation and Order to Extend Discovery Deadlines [ECF No. 35],

1 the current deadlines are as follows:

2 Discovery Cut-Off	Wednesday, December 20, 2017
3 Dispositive Motions	Monday, January 22, 2018
4 Joint Pre-Trial Order	Thursday, February 22, 2018

5
6 Pursuant to LR 26-4, a stipulation to extend any dates set by the scheduling
7 order must be supported by a showing of good cause for the extension. “The good
8 cause inquiry focuses primarily on the movant's diligence.” *Novotny v. Outback*
9 *Steakhouse of Fla., LLC*, 2017 U.S. Dist. LEXIS 114672 at *2 (D. Nev. July 21, 2017)
10 (citing *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1294-95 (9th Cir. 2000)).
11 “Good cause to extend a discovery deadline exists ‘if it cannot reasonably be met
12 despite the diligence of the party seeking the extension.’” *Id.* (quoting *Johnson v.*
13 *Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)). Good cause exists in
14 this case. All of the Parties have exercised diligence with regards to completing
15 discovery. The Parties believe that a 60-day extension is warranted given the need to
16 review discovery responses provided by ACS and determine whether it is necessary
17 to take, defend, and prepare for depositions in this case.

18 **(a) Statement Specifying the Discovery Completed:**

19 At this point in litigation, the Trustee has provided its initial disclosures,
20 designated its expert witness and disclosed an expert report, responded to SFR’s
21 initial set of discovery requests, responded to SFR’s second set of discovery requests,
22 and served written discovery requests to all Parties. The Trustee’s written discovery
23 requests to ACS were dated September 15, 2017. The Trustee’s 30(b)(6) witness has
24 been deposed. The Trustee has also subpoenaed documents from FirstService
25 Residential Nevada, LLC, which subpoena responses are due December 18, 2017, and
26 have not yet been received. The Trustee noticed the 30(b)(6) deposition of SFR, ACS,
27 and the Association, but vacated these depositions to ask SFR, ACS, and the
28 Association about their witness availability.

1 SFR has provided its initial disclosures, served a first round of written
2 discovery requests on the Trustee and received responses to these requests, served a
3 second round of written discovery on the Trustee, and taken the 30(b)(6) deposition of
4 the Trustee's chosen witness. SFR left the 30(b)(6) deposition of the Trustee's chosen
5 witness open to address additional questions that SFR.

6 The Association has served its initial disclosures and responded to the
7 Trustee's written discovery requests.

8 ACS timely responded to the Trustee's requests for admission on October 16,
9 2017. However, ACS did not timely respond to the Trustee's interrogatories or
10 requests for production. Instead, ACS mailed responses to the Trustee's
11 interrogatories and requests for production on December 12, 2017, and provided
12 courtesy electronic copies to the Trustee on December 13, 2017, one week prior to the
13 close of discovery.

14 **(b) Specific Description of the Discovery that Remains to be Completed**

15 The Trustee needs to review the discovery responses provided by ACS to
16 determine whether, in light of these documents, depositions need to be taken or if the
17 parties need to meet and confer about the completeness of the discovery responses.
18 Additionally, the Trustee needs to review the documents subpoenaed by FirstService
19 Residential, Nevada, LLC for the same purposes. Given witness and counsel
20 availability, and the upcoming holidays, the parties anticipate such an extension may
21 require 60 days to properly resolve any discovery disputes and schedule 30(b)(6)
22 depositions.

23 SFR needs to obtain answers to questions left open at the Trustee's 30(b)(6)
24 deposition.

25 **(c) The Reasons Why Remaining Discovery Was Not Completed**

26 Despite their diligence in completing discovery in this case, ACS was unable to
27 respond to the Trustee's written discovery requests by the scheduled deadline. The
28 Trustee attempted to avoid involving the Court in the dispute because it hoped to

1 resolve the issue amicably. ACS agreed to provide responses before the close of
2 discovery, but unfortunately ACS was not able to provide responses early enough
3 that the Trustee could review the documents, determine whether it needed to meet
4 and confer with ACS about any discovery issues, and also schedule depositions that
5 might have been prompted by the discovery responses.

6 Furthermore, SFR took the deposition of the Trustee's 30(b)(6) witness on
7 December 11, 2017. SFR left the deposition open to resolve lingering questions at a
8 later date. The Parties initially anticipated being able to resolve these questions on
9 December 19, 2017, but due to witness and counsel availability this date did not
10 work. Instead, the Parties require additional time to either continue the deposition
11 of the Trustee's 30(b)(6) witness or to have the additional questions answered by
12 amendments to the Trustee's responses to interrogatories.

13 At a minimum, the Parties require an additional 30 days to have adequate
14 time to conduct depositions of all relevant witnesses and resolve outstanding issues,
15 but the Parties believe an additional 60 days will provide adequate time to conduct
16 depositions of all relevant witnesses.

17 **(d) Proposed Schedule for Completing All Remaining Discovery**

18 The Parties propose a 60-day extension of the remaining discovery dates as
19 follows:

20 Discovery Cut-Off	Monday, February 19, 2018
21 Dispositive Motions	Wednesday, March 21, 2018
22 Joint Pre-Trial Order	Friday, April 20, 2018

23
24
25 *(Remainder of Page Intentionally Left Blank)*
26
27
28

BALLARD SPAHR LLP
1980 FESTIVAL PLAZA DRIVE, SUITE 900
LAS VEGAS, NEVADA 89135
(702) 471-7000 FAX (702) 471-7070

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

CONCLUSION

For the above-stated reasons, the Parties respectfully request that this Court enter an Order granting this Stipulation and Order to Extend Discovery Deadlines (Second Request) using the new deadlines noted above.

Dated: December 19, 2017

BALLARD SPAHR LLP

KIM GILBERT EBRON

By: /s/ Justin A. Shiroff
Joel E. Tasca (#14124)
Justin A. Shiroff (#12869)
1980 Festival Plaza Drive, Suite 900
Las Vegas, Nevada 89135
Attorneys for Plaintiff

By: /s/ Diana S. Ebron
Diana S. Ebron (#10580)
Jacqueline A. Gilbert (#10593)
Karen L. Hanks (#9578)
Trella N. McLean (#13376)
7625 Dean Martin Drive, Suite 110
Las Vegas, Nevada 89139

Attorneys for SFR Investments Pool 1, LLC

BOYACK ORME & ANTHONY

ABSOLUTE COLLECTION SERVICES, LLC

By: /s/ Christopher B. Anthony
Edward D. Boyack (#5229)
Christopher B. Anthony (#9748)
401 North Buffalo Drive, #202
Las Vegas, Nevada 89145
Attorneys for Giavanna Homeowners Association

By: /s/ Shane D. Cox
Shane D. Cox (#13852)
8440 West Lake Mead Blvd., Suite 210
Las Vegas, Nevada 89128
Attorney for Absolute Collection Services, LLC

IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE

Dated 12-20-2017.