

1 WRIGHT, FINLAY & ZAK, LLP  
2 Dana Jonathon Nitz, Esq.  
3 Nevada Bar No. 0050  
4 Lindsay D. Robbins, Esq.  
5 Nevada Bar No. 13474  
6 7785 W. Sahara Ave., Suite 200  
7 Las Vegas, NV 89117  
8 (702) 475-7964; Fax: (702) 946-1345  
9 [dnitz@wrightlegal.net](mailto:dnitz@wrightlegal.net)  
10 [lrobbins@wrightlegal.net](mailto:lrobbins@wrightlegal.net)

11 *Attorneys for Plaintiff HSBC BANK USA, NA, AS TRUSTEE FOR THE LMT 2006-7 TRUST  
12 FUND*

13 **IN THE UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15 HSBC BANK USA, N.A., AS TRUSTEE FOR  
16 THE LMT 2006-7 TRUST FUND,

17 Case No.: 2:17-cv-00016-RFB-GWF

18 **STIPULATION AND ORDER TO STAY**

19 Plaintiff,

20 vs.

21 ESTRELLA II HOMEOWNERS'  
22 ASSOCIATION, a Nevada non-profit  
23 corporation; SFR INVESTMENTS POOL I,  
24 LLC, a Nevada limited liability company;

25 Defendants.

26 SFR INVESTMENTS POOL 1, LLC,

27 Counterclaimant/Cross-Claimant,

28 vs.

HSBC BANK USA, N.A., AS TRUSTEE FOR  
THE LMT 2006-7 TRUST FUND; ASHAR W.  
MUJTABA, an individual,

Counter-Defendant/Cross-Defendant.

**STIPULATION AND ORDER TO STAY**

Plaintiff/Counter-Defendant, HSBC Bank USA, N.A., as Trustee for the LMT 2006-7  
Trust Fund ("HSBC Bank"), Defendant/Counterclaimant, SFR Investments Pool 1, LLC

1 ("SFR"), and Defendant, Estrella II Homeowners' Association ("Estrella"), by and through their  
2 respective counsels of record, hereby stipulates as follows in accordance with LR6-1 and LR  
3 26-4.

4 WHEREAS the above-captioned matter concerns declaratory relief claims regarding real  
5 property located at 6243 Copper Light Street, Las Vegas, Nevada 89081 (the "Property").

6 WHEREAS Defendant, SFR, claims it acquired title to the Property following an  
7 Association foreclosure sale under NRS Chapter 116, and further claims said foreclosure  
8 eliminated that Deed of Trust recorded with the Clark County Recorder's Office on May 26,  
9 2006, as Book and Instrument Number 20060526-0002958.

10 WHEREAS Defendant, Estrella, initiated non-judicial foreclosure proceedings before  
11 the Nevada Supreme Court decision in SFR Investments Pool 1 v. U.S. Bank, N.A., 334 P.3d  
12 408 (Nev. 2014).

13 WHEREAS on August 12, 2016, the Ninth Circuit issued its decision in Bourne Valley  
14 Court Trust v. Wells Fargo Bank, N.A., 832 F.3d 1154, 1159-60 (9<sup>th</sup> Cir. 2016) ("Bourne  
15 Valley"), holding that NRS Chapter 116 is facially unconstitutional.

16 WHEREAS on April 21, 2017, the U.S. District Court for the District of Nevada issued  
17 an Order in The Bank of New York Mellon fka The Bank of New York, as Trustee for the  
18 Certificateholders CWABS, Inc. Asset-Backed Certificates, Series 2006-6 v. Star Hill  
19 Homeowners Association et al., Case No. 2:16-cv-025610-RFB-PAL, certifying to the Nevada  
20 Supreme Court the question: "Whether NRS § 116.31168(1)'s incorporation of NRS § 107.090  
21 required a homeowner's association to provide notices of default and/or sale to persons or  
22 entities holding a subordinate interest even when such persons or entities did not request notice,  
23 prior to the amendments that took effect on Oct. 1, 2015?" ECF No. 41, 7:1-4 ("Certified  
24 Question"). The Nevada Supreme Court issued an Order Accepting Certified Question on June  
25 13, 2017. It has not yet been scheduled for oral argument.

26 WHEREAS, the parties dispute whether the outcome of the Certified Question will have  
27 any affect on the application and binding nature of the Bourne Valley decision upon this Court.

28 ///

1                   NOW WHEREFORE, based on the foregoing,

2                   IT IS HEREBY STIPULATED AND AGREED that staying this case pending decision  
3 from the Nevada Supreme Court on the Certified Question will enable the parties to present  
4 arguments and evidence to this Court at an appropriate time with complete legal authority,  
5 thereby promoting the most efficient use of the Court's and the parties' limited resources. The  
6 parties recognize that SFR previously filed a Motion to Stay the Litigation Pending the Certified  
7 Question [ECF No. 35], which HSBC Bank Opposed [ECF No. 40], before it became apparent  
8 how the Court was ruling on other requests for stays of litigation pending the Certified  
9 Question. To preserve judicial resources, HSBC Bank has changed its position and therefore  
10 stipulates to a stay of the current litigation. Staying the case pending the decision from the  
11 Nevada Supreme Court on the Certified Question will also enable the parties to continue  
12 ongoing settlement discussions.

13                  IT IS FURTHER STIPULATED AND AGREED that either party may file a written  
14 motion to lift stay at any time either party determines it appropriate, and either party may file an  
15 opposition to the motion.

16

17                  ///

18

19                  ///

20

21                  ///

22

23                  ///

24

25                  ///

26

27                  ///

28

1 IT IS FURTHER STIPULATED AND AGREED that all proceedings in this lawsuit are  
2 stayed, and all upcoming deadlines, hearings and conferences, including the deadline for the  
3 Estrella and HSBC Bank to file dispositive motions and the pre-trial order, shall be vacated  
4 pending the stay.

5 DATED this 27<sup>th</sup> day of December, 2017.

6 WRIGHT, FINLAY & ZAK, LLP

7 /s/ Lindsay D. Robbins, Esq.

8 Lindsay D. Robbins, Esq.  
9 Nevada Bar No. 13474  
10 *Attorneys for Plaintiff*

DATED this 27<sup>th</sup> day of December, 2017.

KIM GILBERT EBRON

/s/ Jacqueline A. Gilbert, Esq.

Jacqueline A. Gilbert, Esq.  
Nevada Bar No. 10593  
11 *Attorneys for SFR Investments Pool 1, LLC*

12 DATED this 27<sup>th</sup> day of December, 2017.

13 LIPSON NEILSON COLE SELTZER & GARIN

14 /s/ Amber M. Williams, Esq.

15 Amber M. Williams, Esq.  
16 Nevada Bar No. 12301  
17 *Attorneys for Estrella II HOA*

**ORDER**

18 IT IS SO ORDERED.

19 DATED this 28th day of December, 2017



20 UNITED STATES DISTRICT JUDGE

21 Respectfully Submitted by:

22 WRIGHT, FINLAY & ZAK, LLP

23 /s/ Lindsay D. Robbins, Esq.

24 Lindsay D. Robbins, Esq.  
25 *Attorneys for Plaintiff HSBC*  
26 *Bank USA, N.A., as Trustee*  
27 *for the LMT 2006-7 Trust Fund*