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Of Counsel

8 NICHOLAS A. TRUTANICH
United States Attorney

Attorneys for the United States of America

11 IN THE UNITED STATES DISTRICT COURT FOR THE
12 DISTRICT OF NEVADA

13 CAPITAL ONE, NATIONAL)
14 ASSOCIATION, a national banking)
15 association,)

14 Plaintiff,

15 v.

16 SFR INVESTMENTS POOL 1, LLC, a)
17 Nevada limited liability company; and)
18 ANTHEM COUNTRY CLUB COMMUNITY,)
19 ASSOCIATION, a Nevada nonprofit)
20 corporation,)

19 Defendants.

) Case No. 2:17-cv-00604-RFB-BNW
) *consolidated with*
) Case No. 2:17-cv-00916-KJD-BNW
)

) **UNITED STATES' MOTION TO**
) **APPEAR AT JULY 21, 2020,**
) **HEARING BY TELEPHONE OR**
) **VIDEO CONFERENCE**

21 SFR INVESTMENTS POOL 1, LLC, a)
22 Nevada limited liability company,)

22 Counterclaimant/Crossclaimant,

23 v.

24 CAPITAL ONE, NATIONAL)
25 ASSOCIATION, a national banking)

1 Association; LEON BENZER, an individual;)
UNITED STATES OF AMERICA)

2)
3 Cross-Defendants,)
Counter-Defendants.)

4)
5)
6 UNITED STATES OF AMERICA,)

7 Plaintiff,)

8 v.)

9 LEON BENZER;)
10 SFR INVESTMENTS POOL 1, LLC;)
11 CAPITAL ONE, N.A.; ROCKTOP)
12 PARTNERS, LLC; WILMINGTON SAVINGS)
13 FUND SOCIETY, FSB, AS TRUSTEE OF)
14 STANWICH MORTGAGE LOAN TRUST A;)
15 ANTHEM COUNTRY CLUB)
16 COMMUNITY ASSOCIATION;)
17 REPUBLIC SILVER STATE DISPOSAL)
18 INC.,; and INDEMNITY COMPANY OF)
19 CALIFORNIA,)

20 Defendants.)

21)
22)
23 CAPITAL ONE, NATIONAL ASSOCIATION)
a national banking association,)

24 Counter-Claimant/Cross-Claimant,)

25 v.)

26 UNITED STATES OF AMERICA;)
27 LEON BENZER, an individual;)
28 SFR INVESTMENTS POOL 1, LLC,)
29 a Nevada limited liability company; and)
30 ANTHEM COUNTRY CLUB)
31 ASSOCIATION, a Nevada corporation,)

32 Counter-Defendant/Cross-Defendants.)
33)
34)
35)

1 The United States respectfully requests permission to appear at the hearing set for July
2 21, 2020, by telephone or by video conference, as the Court prefers. (*See* ECF No. 272 (Order
3 setting hearing)). The hearing is set for 3:30 pm, before Magistrate Judge Weksler.

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 The two suits in this consolidated proceeding concern competing claims to the same
6 piece of real property. When the litigation began, Capital One, National Association (“Capital
7 One”) allegedly controlled two separate loans secured by the property. It appears that, at some
8 point during the litigation, Capital One sold the two deeds of trust, and/or the underlying loans,
9 to Rocktop Partners, LLC and Wilmington Savings Fund Society, FSB, as Trustee of Stanwich
10 Mortgage Loan Trust A, respectively (together, the “new mortgage claimants”). The instant
11 motion concerns an upcoming Fed R. Civ. P. 30(b)(6) deposition of Capital One (not the new
12 mortgage claimants). All of the litigating parties, including Capital One, have consented to the
13 deposition itself. However, the new mortgage claimants have objected to two subtopics in the
14 deposition notice that concern the transfer or sale of the loans from Capital One to the new
15 mortgage claimants, and have moved for a protective order to bar the questions. The Court set
16 the hearing to discuss their motion.

17 The undersigned counsel for the United States has primary responsibility for the case, and
18 is based in Washington DC. As recognized in the District of Nevada’s Temporary General Order
19 2020-05 and other directives, the COVID-19 pandemic has caused a national emergency that has
20 affected the District of Nevada and the federal court system generally. Although the undersigned
21 understands that the District of Nevada is incrementally resuming in-person hearings (*see, e.g.*,
22 Temporary General Order 2020-08), air travel may pose risks to the undersigned and to court
23 personnel, opposing counsel, or others that the undersigned may interact with if required to travel
24 to Nevada to appear in person. It is difficult to predict the specific risk factors that may be

1 present in Washington or in Nevada at the time of the hearing, and it may be difficult and costly
2 to arrange last-minute air travel. (In fact, the parties have already agreed for the deposition itself
3 to take place via video conference.)

4 Therefore, the United States respectfully requests leave to appear by telephone or video
5 conference at the hearing, as the Court prefers. The undersigned has used various video
6 conferencing software and, if the Court directs a video appearance, the undersigned will
7 endeavor to familiarize herself with, and to practice connecting to, whatever system the Court
8 prefers. The United States has no objection to any of the other parties appearing by telephone or
9 video. Granting the request would cause no material prejudice to any party, especially since
10 counsel for the new mortgage claimants has also moved to appear telephonically. (ECF No.
11 274).

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1 WHEREFORE, the United States seeks permission for its counsel to appear by telephone
2 at the hearing set for July 21, 2020, by calling the Court's chambers, or, if the Court prefers, by
3 video conference.


4
5 DATED this 30th day of June, 2020.

6 */s/ E. Carmen Ramirez*

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9
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14

15
16 IT IS SO ORDERED

17
18 
19 United States Magistrate Judge

20 DATED: July 1, 2020