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SFR Investments Pool 1, LLC

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

12 THE BANK OF NEW YORK MELLON
F/K/A THE BANK OF NEW YORK AS
13 SUCCESSOR TO JPMORGAN CHASE
BANK, NOT INDIVIDUALLY BUT
14 SOLELY AS TRUSTEE FOR THE
HOLDERS OF THE BEAR STEARNS ALT-
15 A TRUST 2004-11, MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES 2004-
16 11,

17 Plaintiff,

18 vs.

19 SFR INVESTMENTS POOL 1, LLC, a
Nevada Limited Liability Company; SMOKE
20 RANCH MAINTENANCE DISTRICT, a
Domestic Non-Profit Corporation; and RED
21 ROCK FINANCIAL SERVICES, LLC, a
Delaware Limited Liability Company,

22 Defendants.
23

Case No.: 2:17-cv-00716-RFB-NJK

**SFR INVESTMENTS POOL 1, LLC'S
DEMAND FOR SECURITY OF COSTS
PURSUANT TO NRS 18.130(1)**

24 **SFR INVESTMENTS POOL 1, LLC'S DEMAND FOR SECURITY OF COSTS**
25 **PURSUANT TO NRS 18.130(1)**

26 Defendant SFR INVESTMENTS POOL 1, LLC ("SFR") hereby demands that Plaintiff
27 THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS
28 SUCCESSOR TO JPMORGAN CHASE BANK, NOT INDIVIDUALLY BUT SOLELY AS

1 TRUSTEE FOR THE HOLDERS OF THE BEAR STEARNS ALT-A TRUST 2004-11,
2 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2004-11 (“BNYM” or “Bank”), an
3 out-of-state resident, post a cost bond pursuant to NRS 18.130(1).

4 In Nevada, if a plaintiff resides outside of Nevada or is a foreign corporation, like the
5 Bank, “security for the costs and charges which may be awarded against such plaintiff may be
6 required by defendant, by the filing and service on plaintiff of a written demand therefor within
7 the time limited for answering the complaint.” NRS 18.130(1). When a defendant demands a
8 cost bond, “all proceedings in the action shall be stayed” until plaintiff files “an undertaking,
9 executed by two or more persons, to be filed with the clerk, to the effect that they will pay such
10 costs and charges as may be awarded against the plaintiff by judgment, or in the progress of the
11 action” or “in lieu of such undertaking, the plaintiff may deposit \$500, lawful money, with the
12 clerk of the court.” *Id.* “After the lapse of 30 days from the service of notice that security is
13 required, or of an order for new or additional security, upon proof thereof, and that no
14 undertaking as required has been filed, the court or judge may order the action to be dismissed.”
15 NRS 18.130(4).

16 “It is the policy of the United States District Court for the District of Nevada to enforce
17 the requirements of NRS 18.130 in diversity actions.” *Feagins v. Trump Organization*, 2012 WL
18 925027 (D. Nev.)(citing *Hamar v. Hyatt Corp.*, 98 F.R.D. 305, 305-6 (D. Nev. 1983); *Arrambide*
19 *v. St. Mary’s Hosp., Inc.*, 647 F.Supp. 1148, 1149 (D. Nev. 1986)).

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1 Here BNYM is not a Nevada citizen, but rather a national banking association organized
2 under the laws of the United States, with its principal place of business located in New York.
3 Accordingly, SFR demands that the Bank post a \$500 cost bond within thirty (30) days and that
4 the proceedings be stayed until such cost bond is posted. Should the Bank fail to comply with the
5 requirements of NRS 18.130 within thirty (30) days, SFR requests this action be dismissed.

6
7 DATED this 13th day of April, 2017.

8 **KIM GILBERT EBRON**

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25 *Attorney for Defendant,*
26 *SFR Investments Pool 1, LLC*

18 **GRANTED.** Security shall be
19 posted within 7 days of the issuance
20 of this order. IT IS SO ORDERED.
21 Dated: April 14, 2017

22 
23 _____
24 United States Magistrate Judge