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12 *Attorneys for Defendant  
Smoke Ranch Maintenance District*

13 8 UNITED STATES DISTRICT COURT  
14 9  
15 10 DISTRICT OF NEVADA

16 11 THE BANK OF NEW YORK MELLON  
17 12 F/K/A THE BANK OF NEW YORK AS  
18 13 SUCCESSOR TO JPMORGAN CHASE  
19 14 BANK, NOT INDIVIDUALLY BUT  
20 15 SOLELY AS TRUSTEE FOR THE  
21 16 HOLDERS OF THE BEAR STEARNS ALT-  
22 17 A TRUST 2004-11, MORTGAGE PASS-  
23 18 THROUGH CERTIFICATES, SERIES 2004-  
24 19 11,

25 20 Plaintiff,

26 21 vs.

27 22 SFR INVESTMENTS POOL, 1, LLC, a  
28 23 Nevada Limited Liability Company; SMOKE  
29 24 RANCH MAINTENANCE DISTRICT, a  
30 25 Domestic Non-Profit Corporation; and RED  
31 26 ROCK FINANCIAL SERVICES, LLC, a  
32 27 Delaware Limited Liability Company,

33 28 Defendants.

34 29 CASE NO. 2:17-cv-00716-RFB-NJK

35 30 **DEMAND FOR SECURITY OF COSTS**

36 31 COMES NOW, Defendant SMOKE RANCH MAINTENANCE DISTRICT by and  
37 32 through its attorneys of record, Marc S. Cwik, Esq., and Bradley M. Marx, Esq., of LEWIS  
38 33 BRISBOIS BISGAARD & SMITH LLP, demands and requests securities from Plaintiff THE  
39 34 BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS SUCCESSOR TO  
40 35 JPMORGAN CHASE BANK, NOT INDIVIDUALLY BUT SOLELY AS TRUSTEE FOR THE

41 36 2:17-cv-00716-RFB-NJK

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42 37 DEMAND FOR SECURITY OF COSTS

43 38 4823-6924-4231.1

1 HOLDERS OF THE BEAR STEARNS ALT-A TRUST 2004-11, MORTGAGE PASS-  
2 THROUGH CERTIFICATES, SERIES 2004-11 (“New York Mellon”), non-residents of the State  
3 of Nevada, post a non-resident cost bond pursuant to Nevada Revised Statutes 18.130(1). This  
4 statute states, in pertinent part:

5 (1) When a plaintiff in an action resides out of the state, or is a foreign corporation,  
6 security for the costs and charges which may be awarded against such plaintiff may  
7 be required by the defendant, by the filing and service on plaintiff of a written  
8 demand therefor within the time limited for answering the complaint. When so  
9 required, all proceedings in the action shall be stayed until an undertaking, executed  
10 by two or more persons, be filed with the clerk, to the effect that they will pay such  
11 costs and charges as may be awarded against the plaintiff by judgment, or in the  
12 progress of the action, not exceeding the sum of \$500; or in lieu of such  
13 undertaking, the plaintiff may deposit \$500, lawful money, with the clerk of the  
14 court, subject to the same conditions as required for the undertaking. The plaintiff,  
15 upon filing the undertaking or depositing the security, shall notify the defendant of  
16 such filing or deposit, and the defendant, after receipt of such notice, shall have 10  
17 days or the period allowed under N.R.C.P. 12(a), whichever is longer, in which to  
18 answer or otherwise plead to the complaint.

19 See, NRS 18.130(1).

20 In diversity cases in the United States District Court for the District of Nevada, demands  
21 for security costs pursuant to NRS 18.130 are enforced and Defendants do not have to include  
22 points and authorities. *Hamar v. Hyatt Corp.*, 98 F.R.D. 305 (D. Nev. 1983).

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DEMAND FOR SECURITY OF COSTS

1 Based upon the above-cited authority and the mandatory requirements of NRS 18.130,  
2 Defendant SMOKE RANCH MAINTENANCE DISTRICT, demands that New York Mellon post  
3 the necessary security of costs of Five Hundred Dollars (\$500.00) within thirty (30) days and that  
4 the proceedings be stayed until such bond is posted. Should New York Mellon fail to comply,  
5 SMOKE RANCH MAINTENANCE DISTRICT requests this action be dismissed.

6 DATED this 26<sup>th</sup> day of April, 2017.

# LEWIS BRISBOIS BISGAARD & SMITH LLP

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*Attorneys for Defendant  
Smoke Ranch Maintenance District*

15 GRANTED. Security shall  
16 be posted within 7 days of  
the issuance of this order.

17 IT IS SO ORDERED.

Dated: April 27, 2017

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**United States Magistrate Judge**