

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

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5 U.S. BANK NATIONAL ASSOCIATION,
6
7 Plaintiff,
8 vs.
9 SFR INVESTMENTS POOL 1, LLC, et al.,
10 Defendants.

2:17-cv-01962-JCM-VCF

ORDER

MOTION FOR LEAVE TO FILE FIRST AMENDED
COMPLAINT (ECF No. 28)

11 Before the Court is Plaintiff U.S. Bank National Association's ("U.S. Bank") Motion for Leave to
12 File First Amended Complaint (ECF No. 28). For the reasons stated below, Plaintiff's Motion is granted.

13 **BACKGROUND**

14 On July 19, 2017, Plaintiff filed a complaint against SFR Investments Pool 1, LLC ("SFR") and
15 Tapestry at Town Center Homeowner's Association ("HOA"). (ECF No. 1). Plaintiff asserted that HOA
16 conducted an invalid HOA sale when it auctioned the property to SFR. (Id.) Specifically, Plaintiff argues
17 that HOA and/or its agent Terra West Collections Group LLC d/b/a Assessment Management Services
18 ("AMS") failed to provide proper notice of the sale to Plaintiff pursuant to NRS 116.3102. (Id.). Plaintiff
19 brought the following claims: Quiet Title/Declaratory Relief; Preliminary Injunction; Unjust Enrichment;
20 Wrongful Foreclosure; Negligence; and Negligence Per Se. (Id.).

21 SFR filed a motion to dismiss on August 28, 2017. (ECF No. 14). HOA filed a motion to dismiss
22 on October 18, 2017 (ECF No. 19). Both motions are still pending. The Court issued a scheduling order
23 on October 25, 2017. (ECF No. 21). The deadline to file a motion to amended the pleadings or add parties
24 was January 23, 2018. (Id. at 4).
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1 Plaintiff filed a Motion for Leave to File First Amended Complaint on January 23, 2018. (ECF
2 No. 28). Plaintiff seeks to add AMS as a Defendant. Neither Defendant has filed an opposition to the
3 motion.

4 DISCUSSION

5 “[A] party may amend its pleading only with the opposing party's written consent or the court's
6 leave. The court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). “Five factors
7 are taken into account to assess the propriety of a motion for leave to amend: bad faith, undue delay,
8 prejudice to the opposing party, futility of amendment, and whether the plaintiff has previously amended
9 the complaint.” Johnson v. Buckley, 356 F.3d 1067, 1077 (9th Cir. 2004). Under LR 7-2(d) “[t]he failure
10 of an opposing party to file points and authorities in response to any motion...constitutes a consent to
11 granting the motion.”

12 Neither Defendant has filed an opposition to Plaintiff’s Motion, so the Defendants have consented
13 to the Court granting the Motion. The Court also finds grounds to grant Plaintiff’s Motion. Plaintiff’s
14 Motion does not seem to be brought in bad faith. The only substantial change in the amended complaint
15 is adding AMS as a Defendant. (ECF No. 28-1 at 2). Plaintiff asserts that it could not add AMS as a party
16 until it had gone through mediation with the National Real Estate Division pursuant to NRS 38.310. (ECF
17 No. 28 at 3). Plaintiff asserts that the mediation is now complete and was unsuccessful. (Id.) There was
18 no undue delay. Plaintiff filed its Motion within the time set by the scheduling order. (ECF No. 21 at 4).
19 There will not be any prejudice to the opposing parties if the Court grants the Motion. Plaintiff’s proposed
20 amended complaint does not alter any of the facts or claims brought against any of the Defendants. (ECF
21 No. 28-1). Plaintiff had also already listed AMS as a “Non-Party Actor” in its original complaint. (ECF
22 No. 1 at 3). Plaintiff’s amendments do not appear to be futile. This is Plaintiff’s first motion for leave to
23 amend the complaint.
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1 Under LR 15-1, "The proposed amended pleading must be complete in and of itself without
2 reference to the superseded pleading and must include copies of all exhibits referred to in the proposed
3 amended pleading." While Plaintiff has attached a proposed amended complaint to its motion, it failed to
4 include the exhibits referred to in the amended complaint. (ECF No. 28). The exhibits referenced in the
5 amended complaint are the same as the exhibits referenced in the original complaint. (ECF No. 1; ECF
6 No. 28-1). The Court notes that Plaintiff filed the original complaint with all referenced exhibits attached
7 (ECF No. 1). The Court instructs the Plaintiff to file the amended pleading with all referenced exhibits
8 included as well.

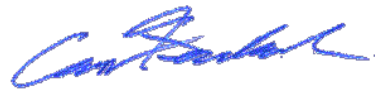
9 ACCORDINGLY, and for good cause shown,

10 IT IS ORDERED that U.S. Bank National Association's Motion for Leave to File an Amended
11 Complaint (ECF No.28) is GRANTED.

12 IT IS FURTHER ORDERED that U.S. Bank National Association has until February 22, 2018 to
13 file the amended complaint.

14 IT IS SO ORDERED.

15 DATED this 13th day of February, 2018.



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17 CAM FERENBACH
18 UNITED STATES MAGISTRATE JUDGE
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