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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CRYSTAL HAYNES, a single woman,  
MARCY JOHNSON, Executor of the  
Estate of Michael H. Kessler,  
individually, and on behalf of others  
similarly situated

Plaintiffs,

v.

BANK OF AMERICA, NATIONAL  
ASSOCIATION,

Defendant.

CASE NO. C18-5190 BHS

ORDER EXTENDING STAY

This matter comes before the Court on the parties’ joint status report requesting guidance on whether to lift the stay. Dkt. 26.

On June 6, 2018, the Court granted the parties’ stipulated motion to stay during the pendency of John R. Bund II, et al. v. Safeguard Properties, LLC, No. 2:16-cv-920-MJP, W.D. Wash. (“Bund”). Dkt. 20. On October 19, 2018, Judge Pechman issued an order in Bund decertifying the class and dismissing the case because the representative plaintiff lacked standing to assert a claim much less represent a class. Id., Dkt. 346. Judge

1 Pechman also expressed her concern that class counsel, the same counsel in this action,  
2 may not adequately represent plaintiffs in Bund or similar cases such as this one. *Id.* On  
3 November 14, 2018, the parties filed the instant joint status report requesting guidance on  
4 whether this stay should be lifted and the pending motions renoted or whether the stay  
5 should remain pending plaintiff’s appeal in Bund. Dkt. 26. The Court finds that good  
6 cause remains to maintain the stay for two reasons. First, like the plaintiff in Bund, it  
7 appears that Plaintiff Crystal Haynes lacks standing to represent the class because the  
8 operative facts occurred before the Washington Supreme Court issued its decision in  
9 *Jordan v. Nationstar Mortgage, LLC*, 185 Wn.2d 876 (2016). See Dkt. 9, ¶ 5.17 (“Bank  
10 of America never removed its locks from the Haynes Property, and never affirmatively  
11 contacted Ms. Haynes to offer to remove its locks, even after the Jordan Decision.”).

12         Second, Judge Pechman’s concerns with class counsel, while not dispositive,  
13 could be persuasive on the issue of appointing class counsel in this matter. It is not likely  
14 that the Ninth Circuit will touch on these concerns, but a decision on the merits of the  
15 appeal may shed some light on those concerns. Therefore, the Court extends the stay  
16 pending the Ninth Circuit’s decision in the Bund appeal. The parties shall file a joint  
17 status report after that mandate is issued or when some other significant event occurs that  
18 either party concludes necessitate a review of the stay.

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**IT IS SO ORDERED.**

Dated this 13th day of December, 2018.



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BENJAMIN H. SETTLE  
United States District Judge