RECORDER'S BILLING INVOICE

CASE #:	**A728840**		
CASE NAME:	**Deutsche Bank Natl Trust v. SFR Investments Pool 1**		
HEARING DATE:	**1/30/18**		
DEPARTMENT #:	31		
COURT RECORDER CONTACT INFO:	Sandra Harrell Phone: 702-671-0897 email: harrells@clarkcountycourts.us		
ORDERED BY:	Jason Martinez, Esq. / Contact: Tomas Valerio		
FIRM:	Kim Gilbert Ebron		
EMAIL:	tomas@kgelegal.com		
PAYABLE TO:	Make check payable to: **Clark County Treasurer** ▪ County Tax ID#: 88-6000028 ▪ Include case number on check		
Mailing Address:	Regional Justice Center Fiscal Services Attn: Jennifer Garcia 200 Lewis Ave. Las Vegas, NV 89155		
Credit Card Payment	Call (702) 671-4507 and give cashier credit card information verbally.		
BILL AMOUNT:	1	hour @ $40 an hour recording fee =	$40.00
TOTAL DUE - RECORDING FEE ONLY			**$40.00**
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KRISTEN LUNKWITZ
Independent Transcriber
291 Elder View Drive
Las Vegas, NV 89138
(702) 813-2403
kristenlunkwitz@aol.com

Attorney:	Jason Martinez	**Job #:**	18023
Attention:	Tomas Valerio	**Department #:**	31
Date Ordered:	1/31/18	**Case #:**	A728840
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# OF PAGES	CASE INFORMATION	PRICE PER PAGE	TOTAL CHARGES
31	DEUTSCHE BANK NATIONAL TRUST COMPANY VERSUS SFR INVESTMENTS POOL 1, LLC Hearing Date: 1/30/18	$5.01	$155.31
	TOTAL OWED:		**$155.31**

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21012	February 14, 2018	NV117605

Tomas Valerio
(702) 485-3300
tomas@kgelegal.com
REF: Edgemoor Way
POD DATE: 2/14/2018

Bill To:
KIM GILBERT EBRON
7625 Dean Martin Drive 110
Las Vegas, NV 89139

Delivery Date/Time: 2/14/2018 9:55 AM

Delivered to: **Nationwide Legal**
626 South 7th Street
Las Vegas, NV 89139

DESCRIPTION OF SERVICES RENDERED	QUANTITY	UNIT PRICE	AMOUNT
Base Charge	10.00	.00	15.00
Description: Delivered from 7785 W. Sahara Ave. Las Vegas, NV, 89117 to P/U SIGNATURE PAGE @ 626 South 7th Street Las Vegas, NV, 89139			
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1682

MEMO017

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Los Angeles, CA 90015
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ACCOUNT NO:	DATE ENTERED:	CONTROL #:
21012	February 14, 2018	NV117606

Tomas Valerio
(702) 485-3300
tomas@kgelegal.com
REF: Edgemoor Way
POD DATE: 2/14/2018

Bill To:
KIM GILBERT EBRON
7625 Dean Martin Drive 110
Las Vegas, NV 89139

Delivery Date/Time: 2/14/2018 9:32 AM

Delivered to: **Nationwide Legal**
626 S. 7th Street
Las Vegas, NV 89101

DESCRIPTION OF SERVICES RENDERED	QUANTITY	UNIT PRICE	AMOUNT
Base Charge	4.00	.00	15.00
Description: Delivered from 3960 Howard Hughes Parkway Las Vegas, NV, 89169 to P/U SIGNATURE PAGE @ 626 S. 7th Street Las Vegas, NV, 89101			
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21012	February 14, 2018	NV117606

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1609 James M Wood Blvd.
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TOTAL DUE: $ 15.00

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2. MAKE CHECKS PAYABLE TO **Nationwide Legal Nevada, LLC**

Service Type: 010 - STANDARD DELIVERY - 4 HRS

Order#:NV117606/INVOICEM

1683

MEMO018

Nationwide Legal Nevada, LLC
1609 James M Wood Blvd
Los Angeles, CA 90015
(213) 249-9999 FAX (213) 249-9990

ACCOUNT NO:	DATE ENTERED:	CONTROL #:
21012	February 28, 2018	NV120225

Tomas Valerio
(702) 485-3300
tomas@kgelegal.com
REF: Edgemoor Way
POD DATE: 3/2/2018

Bill To:
KIM GILBERT EBRON
7625 Dean Martin Drive 110
Las Vegas, NV 89139

Delivery Date/Time: 3/2/2018 11:47 AM

Delivered to: **KIM GILBERT EBRON**
7625 Dean Martin Drive, Suite 600
Las Vegas, NV 89139

DESCRIPTION OF SERVICES RENDERED	QUANTITY	UNIT PRICE	AMOUNT
Base Charge	9.00	.00	15.00
Description: Delivered from 3960 Howard Hughes Parkway Las Vegas, NV, 89169 to Diane L Dieolart @ 7625 Dean Martin Drive Las Vegas, NV, 89139			
		TOTAL DUE	**$ 15.00**

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ACCOUNT NO:	DATE ENTERED:	CONTROL #:
21012	February 28, 2018	NV120225

Remit To:

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TOTAL DUE: $ 15.00

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2. MAKE CHECKS PAYABLE TO **Nationwide Legal Nevada, LLC**

Service Type: 010 - STANDARD DELIVERY - 4 HRS

Order#:NV120225/INVOICEM

1684

MEMO019

EXHIBIT 2

Addendum A: Qualifications of Michael Brunson

Michael L. Brunson, SRA, MNAA

AQB Certified USPAP Instructor
Nevada Certified General Appraiser #A.0207222-CG
Member of the Nevada Real Estate Division Appraisal Advisory Review Committee
Collateral Valuation Specialist
mike@brunson-jiu.com www.brunson-jiu.com

VALUATION BUSINESS BACKGROUND

Brunson-Jiu, LLC (Partner, 2011 – Present) Founding partner of a firm providing real property valuations, consulting and expert witness services. Areas of specialty include: real estate damages analysis for residential, commercial, vacant land and multi-family properties; and business valuation and exit planning strategies.

Bell Anderson & Sanders LLC (Contract Appraiser, 2008 – 2014) Engagement involved studying the economic impact of detrimental conditions, including issues such as environmental contamination, construction defects, legal conditions such as eminent domain, and proximity effects.

Columbia Institute (Instructor, 2009-Present) Approved to teach pre-licensing and continuing education courses related to residential appraisal

Ascent Appraisal, Inc. (Principle/Chief Appraiser, 1997 – 2011) An independent real estate valuation and consulting firm providing a comprehensive range of professional valuation products and services. We specialize in expert witness services; litigation support and consulting; forensic review; and complex valuation assignments.

Institute for Real Estate and Appraisal Studies (Instructor, 2003 – 2009) Approved to teach both pre-licensing and continuing education courses related to residential appraisal.

Ascent Inspection, Inc. (Owner/Primary Inspector, 2001 – 2003) An independent residential and commercial inspection firm providing both pre-purchase and pre-listing property inspections.

Berry & Associates (Registered Intern/Office Manager, 1995 – 1997) Performed single and multi-family residential appraisal assignments in form reports on various property types; conducted extensive market research & due diligence; performed internal appraisal review function; and appraisal office management.

AQB Certified USPAP Instructor The Uniform Standards of Professional Appraisal Practice (USPAP) are the recognized standard of care for professional appraisers. Michael is one of only six certified appraisers qualified as an AQB Certified USPAP Instructor in Nevada. He teaches USPAP courses and provides USPAP consultation to attorneys, appraisers, and lending clients. Michael has completed assignments for civil, probate, real estate damages, and divorce cases. He has qualified as an expert witness in real estate valuation in the 8th Judicial District Court of Clark County, Nevada.

Assignments in which an expert has provided deposition or court testimony are disclosed in compliance with state/federal law. Cases lacking such testimony are confidential.

Cases with Court Testimony:

Johnson et al v Stanpark, A-606013

Santos Probate, P-068058

Dennett v Miller, A-459131

Cases with Deposition:

Sunlight Trust v Brogan, A-691473

Wells Fargo v SFR, 2:15-cv-00576-RFB-CWH

SFR v Green Tree Servicing, A-680704

FDIC v CoreLogic, SACV11-704 DOC

Nguyen v Taylor, A-644936

Aguirre v American Nevada, A-600566

Copper Sands HOA v Copper Sands Realty A-560139

Deutsche Bank National Trust Co. v Mha, A-532836

Carlisle v Pardee, A-421939

Demby v Chamberlin, A-443513

INTERVIEWS, PUBLICATIONS AND PUBLIC TESTIMONY

Local and national media recognize Michael as an expert in the Las Vegas Real Estate market.

- Panel Member, Spring 2015 Housing Outlook, Homebuilders Research (May 29, 2015)
- Panel Member, Lied Institute and Nevada Department of Business and Industry - Nevada Housing Forum (September 22, 2014)
- Panel Member, Using the Cost Addendum for High Performance Homes (October, 16, 2013)
- Panel Member, The Green Home Valuation Summit, Phoenix, AZ (September 23, 2013)
- Appraisal Industry Representative, Special City Council Meeting of the City of North Las Vegas, Regarding the underwater mortgage crisis (June 11, 2013)
- Panel Member, Spring 2013 Housing Outlook, Homebuilders Research (April 12, 2013)
- Interviewed by Diana Olick of CNBC (March 5, 2013 published on cnbc.com and aired on the NPR Nightly Business Report)
- Panel Member and Presenter, 2012 High Performance Home & Building Summit (August 15-16, 2012)
- Panel Member, Spring 2012 Housing Outlook, Homebuilders Research (April 27, 2012) Quoted by Hubble Smith of the Las Vegas Review Journal.
- Real Estate Panel Member, Spring 2011 Economic Outlook, UNLV Center for Business and Economic Research, (June 20, 2011)
- Interviewed by Jason Morgan of *Valuation Review*, Appraisers caught in the middle of Las Vegas housing market tensions, Online: March, 31, 2011, Print: April 25, 2011
- Interviewed by Calvert Collins of KLAS-TV (aired March 28, 2011)
- Author, Growing Business: Giving Clients What They Need, Vol. 217, February 16, 2011, *Working RE Magazine*
- Interviewed by Hubbel Smith of the Las Vegas Review-Journal (August 5, 2010).
- Interviewed by Calvert Collins of KLAS-TV (aired May 5, 2010)
- Interviewed by Dana Gentry of Las Vegas 1 (aired March 27, 2009)
- Interviewed by Chris Saldana of KLAS-TV (aired March 9, 2009)
- Interviewed by Stephanie Dhue of the Nightly Business Report (aired October 62, 2007).
- Interviewed by Hubbel Smith of the Las Vegas Review-Journal (June 7, 2007).

Michael has provided public comment and testimony before the Nevada Commission of Real Estate Appraisers, the Nevada Assembly Committee on Commerce and Labor and the Nevada Senate Committee on Commerce and Labor on numerous occasions.

MEMBERSHIPS

National Association of Appraisers: 2013, 2014 President; 2010-2012 Vice President,

Coalition of Appraisers in Nevada: 2011, 2010 President; 2009 Vice President; Government Relations Committee Chair 2009-2014.

SRA Designated Member, Appraisal Institute

National Association of Realtors

Greater Las Vegas Association of Realtors

TEACHING EXPERIENCE

Approved by the State of Nevada to teach both pre-licensing and continuing education appraisal courses. Michael has also been approved to teach courses in California, Arizona, Indiana, Michigan, Wisconsin, and Utah. A partial list of classes includes:

Fundamentals of Real Estate Appraisal
Applied Residential Appraisal Techniques I
Appraisal Law in Nevada
Highest & Best Use Analysis I
Appraising Small Residential Income Properties
Cost Approach Revisited
Communicating the Appraisal I, II, III and IV
7 and 15 Hour National Uniform Standards of Professional Appraisal Practice
How Finance affects Value
Advanced Neighborhood and Market Area Analysis
Appraising 2-4 & Multi-Family Properties
Foreclosures & Short Sales: Dilemmas and Solutions

Private seminars authored and instructed by Mr. Brunson:

Neighborhood and Market Analysis I and II
Cost Approach – The Square Foot Method
Mortgage Fraud – An Appraiser's Perspective (NV CLE Seminar)
Residential Real Estate Appraisal (For Brokers/Agents)
How to Select & Evaluate an Expert Witness (NV CLE Seminar)

EDUCATION

Professional Education

University of Nevada, Las Vegas, Introductory and Intermediate Statistics
Clark County Community College, Principles of Real Estate Appraisal
Appraisal Institute, Standards of Professional Practice, Part A (410)
Appraisal Institute, Standards of Professional Practice, Part B (420)
Appraisal Institute, Standards of Professional Practice, Part C (430)
Appraisal Institute, Nevada Appraisal Statutes
Appraisal Institute, FHA and the Appraisal Process
Appraisal Institute, Complex Litigation Appraisal Case Studies
Appraisal Institute, Analyzing the Effects of Environmental Contamination on Real Estate
Appraisal Institute, Advanced Income Capitalization
Appraisal Institute, Advanced Spreadsheet Modeling for Valuation Applications
Appraisal Institute, General Appraiser Site Valuation and Cost Approach
Appraisal Institute, General Appraiser Sales Comparison Approach
Appraisal Institute, General Appraiser Market Analysis and Highest and Best Use
Appraisal Institute, Real Estate Finance, Statistics, and Valuation Modeling
Appraisal Institute, Advanced Residential Report Writing, Part I and II
Nevada Commission of Appraisers, Valuing Residential Energy Efficiency
Chicopee Group, Impact of Financing on Appraisals
TWI Systems, 50 hours of Professional Inspection Training
Clark County Community College, 60 hours of home Inspectors Training
Institute for Real Estate and Appraisal Studies, Applied Residential Appraisal Techniques I
Institute for Real Estate and Appraisal Studies, Highest and Best Use Analysis I
Institute for Real Estate and Appraisal Studies, Introduction to Business Appraisal
Institute for Real Estate and Appraisal Studies, Small Residential Income Properties I
Institute for Real Estate and Appraisal Studies, Introduction to Commercial Appraisal
Institute for Real Estate and Appraisal Studies, Income Capitalization I and II
IRWA, Principles of Real Estate Engineering
IRWA, Understanding Environmental Contamination in Real Estate
IRWA, Environmental Due Diligence and Liability
(Current Continuing Education course list available upon request)

Other Education

University of Nevada at Las Vegas, Las Vegas, NV - 1991
B.A. in Psychology. Emphasis on experimental psychology and methodology.

Chaparral High School, Las Vegas, NV ▪ 1987
Graduated with High Honors.

REFERENCES

- Available upon request

Electronically Filed
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Steven D. Grierson
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MRTX
MELANIE D. MORGAN, ESQ.
Nevada Bar No. 8215
THERA A. COOPER, ESQ.
Nevada Bar No. 13468
AKERMAN LLP
1635 Village Center Circle, Suite 200
Las Vegas, Nevada 89134
Telephone: (702) 634-5000
Facsimile: (702) 380-8572
Email: melanie.morgan@akerman.com
Email: thera.cooper@akerman.com
Attorneys for Plaintiff and Counter-Defendant/Cross-Defendant Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9,

Plaintiff,

v.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNERS ASSOCIATION, INC.; DOE INDIVIDUALS I through X, inclusive: and ROE CORPORATIONS I through X, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter-Claimant/Cross-Claimant,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9; NATIONSTAR MORTGAGE, LLC, a Delaware limited liability company; ROMY SCHNITZER-COOK, fka ROMY HOYER, an individual; and STEVEN ROY COOK, an individual,

Counter-Defendants/Cross-Defendants.

Case No.: A-15-728840-C

Dept.: XXXI

MOTION TO RETAX COSTS AND TO SETTLE MEMORANDUM OF COSTS AND DISBURSEMENTS FILED BY PLAINTIFF/COUNTERDEFENDANT DEUTSCHE BANK NATIONAL TRUST COMPANY

AKERMAN LLP
1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9 by and through its counsel of record, Akerman LLP, opposes defendant/counter-claimant SFR Investments Pool 1, LLC's memorandum of costs and disbursements, which seeks excessive and unsupported costs. Deutsche further opposes SFR's memorandum to the extent it seeks costs wholly related to SFR's claims against other parties in this case.

NOTICE OF MOTION

PLEASE TAKE NOTICE Deutsche will bring the foregoing **MOTION TO RETAX COSTS AND TO SETTLE MEMORANDUM OF COSTS AND DISBURSEMENTS** for hearing before the Eighth Judicial District Court, located at the Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada 89155, on the _____ day of September 6, 2018, at the hour of 9:00 am o'clock _____.m.

DATED this 27th day of August, 2018.

AKERMAN LLP

/s/ Thera A. Cooper
MELANIE D. MORGAN, ESQ.
Nevada Bar No. 8215
THERA A. COOPER, ESQ.
Nevada Bar No. 13468
1635 Village Center Circle, Suite 200
Las Vegas, Nevada 89134

Attorneys for Plaintiff and Counter-Defendant/Cross-Defendant Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This is an HOA foreclosure case. Following trial, on August 13, 2018, the parties filed the Findings of Fact, Conclusions of Law, and Judgment holding the HOA foreclosure sale extinguished Deutsche's deed of trust and SFR owned the property free and clear of Deutsche's interest. SFR submitted its memorandum of costs and disbursements on August 15, 2018.

Deutsche disputes SFR's entitlement to all of the costs sought in its memorandum. The memorandum is overly broad and seeks recovery of expert costs beyond those permitted by NRS 18.110(4). SFR fails to demonstrate the expert costs are reasonable and justified. The expert costs should be rejected or reduced as set forth below.

II. AUTHORITY TO RETAX AND SCOPE OF RECOVERABLE COSTS

Where a party seeks recovery of costs, NRS 18.110(4) allows the opposing party to move to retax and settle costs upon notice. It provides:

> Within 3 days after service of a copy of the memorandum, the adverse party may move the court, upon two days' notice, to retax and settle the costs, notice of which motion shall be filed and served upon the prevailing party claiming costs. Upon hearing of the motion the court or judge shall settle costs.

NRS 18.110(4).

The costs recoverable to a prevailing party are limited and set by statute. The exhaustive list includes:

1. Clerk's fees.
2. Reporter's fees for depositions, including a reporter's fee for one copy of each deposition.
3. Jurors' fees and expenses, together with reasonable compensation of an officer appointed to act in accordance with NRS 16.120.
4. Fees for witnesses at trial, pretrial hearings and deposing witnesses, unless the court finds that the witness was called at the instance of the prevailing party without reason or necessity.
5. Reasonable fees of not more than five expert witnesses in an amount of not more than $1,500 for each witness, unless the court allows a larger fee after determining that the circumstances surrounding the expert's testimony were of such necessity as to require the larger fee.
6. Reasonable fees of necessary interpreters.

7. The fee of any sheriff or licensed process server for the delivery or service of any summons or subpoena used in the action, unless the court determines that the service was not necessary.

8. Compensation for the official reporter or reporter pro tempore.

9. Reasonable costs for any bond or undertaking required as part of the action.

10. Fees of a court bailiff or deputy marshal who was required to work overtime.

11. Reasonable costs for telecopies.

12. Reasonable costs for photocopies.

13. Reasonable costs for long distance phone calls.

14. Reasonable costs for postage.

15. Reasonable costs for travel and lodging incurred taking depositions and conducting discovery.

16. Fees charged pursuant to NRS 19.0335.

17. Any other reasonable and necessary expense incurred in connection with the action, including reasonable and necessary expenses for computerized services for legal research.

NRS 18.005.

"The determination of allowable costs is within the sound discretion of the trial court." *Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1352, 971 P.2d 383, 385-86 (1998). "However, statutes permitting the recovery of costs are to be strictly construed because they are in derogation of the common law." *Id.* Even when an award of costs is mandated, "the district court still retains discretion when determining the reasonableness of the individual costs to be awarded." *U.S. Design & Constr. Corp. v. I.B.E.W. Local 357*, 118 Nev. 458, 463, 50 P.3d 170, 173 (2002). These costs must be "actual and reasonable, rather than a reasonable estimate or calculation of such costs." *Berosini*, 114 Nev. at 1352, 971 P.2d at 385-86 (internal quotations omitted).

The party claiming costs must show how the costs were necessary to and incurred in the action and provide sufficient justifying documentation and specific itemization to demonstrate the reasonableness and the accuracy of the costs claimed. *Waddell v. L.V.R.V. Inc.*, 122 Nev. 15, 25-26, 125 P.3d 1160, 1166-67 (2006). Such documentation must substantiate the reason for the claimed

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TEL.: (702) 634-5000 – FAX: (702) 380-8572

cost, rather than merely provide the amount of cost incurred. *Village Builders 96, L.P. v. U.S. Laboratories, Inc.*, 121 Nev. 261, 277, 112 P.3d 1082, 1093 (2005). The Nevada Supreme Court has uniformly held that NRS 18.005 and NRS 18.110 should be narrowly construed, and that the term "reasonable costs" means actual costs that are also reasonable. *Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1352, 971 P.2d 383 (1998) ("statutes permitting the recovery of costs are to be strictly construed because they are in derogation of the common law . . . . We have held that 'reasonable costs' must be actual and reasonable. . . ."); *Gibellini v. Klindt*, 110 Nev. 1201, 1205-06, 885 P.2d (1994).

III. SFR'S ALLEGED COSTS FOR CLERK'S FEES AND EXPERT FEES ARE NOT PERMITTED BY STATUTE

The court should reduce SFR's costs, as set forth below.

a. Clerk's Fees to be Retaxed

SFR seeks $423 in filing fees. These include $223 for the filing of its counterclaims. *See* Memorandum at 004. SFR countersued Nationstar along with Deutsche, Romy Hoyer and Steven Roy Cook. SFR voluntarily dismissed its claims against Nationstar and obtained defaults against defendants Hoyer and Cook. Deutsche objects to and seeks to retax the pro-rata share of the filing fees for the counterclaim related to these other three parties. At most, only one fourth of those costs could relate to SFR's claims against Deutsche.

b. Expert Fees

SFR seeks to tax $2,090.00 for expert fees. The statute provides for "reasonable fees of not more than five expert witnesses in an amount of not more than $1,500 for each witness, unless the court allows a larger fee after determining that the circumstances surrounding the expert's testimony were of such necessity as to require the larger fee." NRS 18.005. SFR argues $2,090 is justified because the expert was "vital in explaining why the subject property was purchased at a commercially reasonable rate" and inaccurately suggests the court *relied* on the expert testimony in finding judgment for SFR. (Memorandum, 6:2-9.)

Mr. Brunson was designated by SFR as a rebuttal expert to Deutsche's expert, Scott Dugan. The Findings of Fact, Conclusions of Law and Order states the court did **not** rely on Mr. Dugan's

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expert testimony in finding judgment for SFR. In fact, SFR's expert was not even called to testify during the trial and his rebuttal report was not admitted into evidence. Nothing related to either party's expert is designated as a finding of fact within the Court's August 13, 2018 Order. Most notably, the Court held, "…while the Bank offered expert testimony regarding the retrospective market value of the Property, the Court concludes this opinion of value is **irrelevant**…" (*See* FFCL, p. 9:24-28.) (Emphasis added.)

SFR presents no circumstances justifying a cost award in excess of $1,500 for expert witness fees. The statutory maximum of $1,500 is an alternative to "reasonable fees." Here, this is only one of many cases where SFR has retained Mr. Brunson as a rebuttal expert. There is nothing unusual or unique about his opinions or analysis in this particular case. *Id.* Mr. Brunson's report contains largely the same information as his numerous other reports, the only material difference being the property address and date of sale. In addition, the only evidence of costs incurred attached to SFR's memorandum is an invoice from Brunson-Jiu, LLC totaling $1,000. Mr. Brunson was not deposed in this case and, as discussed above, did not testify at trial. Deutsche proposes a reasonable expert fee would, **at maximum**, be $1,000.

IV. CONCLUSION

For the foregoing reasons, the court should deny SFR's requests for the costs noted above and reduce SFR's total cost request from $4,344.76 to $2,937.51.

DATED this 27th day of August, 2018

AKERMAN LLP

/s/ Thera A. Cooper
MELANIE D. MORGAN, ESQ.
Nevada Bar No. 8215
THERA A. COOPER, ESQ.
Nevada Bar No. 13468
1635 Village Center Circle, Suite 200
Las Vegas, Nevada 89134

Attorneys for Plaintiff and Counter-Defendant/Cross-Defendant Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 27th day of August, 2018, I caused to be served a true and correct copy of the foregoing **MOTION TO RETAX COSTS AND TO SETTLE MEMORANDUM OF COSTS AND DISBURSEMENTS FILED BY PLAINTIFF/COUNTERDEFENDANT DEUTSCHE BANK NATIONAL TRUST COMPANY,** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

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/s/ Erin Surguy
An employee of AKERMAN LLP

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8/29/2018 5:05 PM
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DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN-PASS-THROUGH CERTIFICATES, SERIES 2006-9,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNER'S ASSOCIATION, INC., is a Nevada non-profit corporation; DOE INDIVIDUALS I through X inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter/Cross-Claimant,

vs.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN-PASS-THROUGH CERTIFICATES, SERIES 2006-

Case No.: A-15-728840-C

Dept. No.: XXXI

SFR INVESTMENTS POOL 1, LLC'S OPPOSITION TO MOTION TO RETAX COSTS AND TO SETTLE MEMORANDUM OF COSTS AND DISBURSEMENTS FILED BY PLAINTIFF/COUNTERDEFENDANT DEUTSCHE BANK NATIONAL TRUST COMPANY

Case Number: A-15-728840-C

9; NATIONSTAR MORTGAGE, LLC, a Delaware limited liability company; ROMY SCHNITZER-COOK, fka ROMY HOYER, an individual; and STEVEN ROY COOK, an individual,

Counter/Cross-Defendants.

SFR Investments Pool 1, LLC's hereby files its Opposition to motion to re-tax costs and to settle memorandum of costs and disbursements filed by Plaintiff/Counter-Defendant Deutsche Bank National Trust Company (the "Bank"). This response is based on the papers and pleadings on file herein, including SFR's Memorandum of Costs (SFR's Moc.) incorporated herein by reference, the following memorandum of points and authorities, and any oral argument this Court may entertain.

MEMORANDUM OF POINTS AND AUTHORITIES

A. Clerk's Fees were Reasonable, Necessary and Actually Incurred.

The Bank's argument that the filing fees are to be re-taxed misses the mark. The Bank sued SFR, which required SFR to assert its compulsory claims, of which was bringing the former homeowners, Romy Hoyer and Steven Roy Cook. The same holds for why SFR brought in Nationstar as it recorded a Request for Notice Under NRS Chapters 107 and 116, claiming an interest in the Property.[1] Pursuant to NRS 18.005(1) SFR is entitled to its clerks fees, which were reasonable, necessary and actually incurred. As a result, the Bank's motion to ret-ax the clerk's fees must be denied.

B. Expert Fees Satisfied *Frazier v. Drake*.[2]

The Bank's argument to re-tax SFR's expert also misses the mark. SFR diligently prepared for trial and its expert, Michael Brunson, was ready, willing and able to appear at trial. Michael Brunson prepared a detailed analysis regarding the value of the Property. The only reason SFR did not need to actually use its witness was that the Bank failed to prove its case-in-chief so SFR was able to prevail at trial on an NRCP 52(c) motion. In other words, SFR had to

[1] Recorded in the Official Records of the Clark County Recorder as Inst. # 20150331-0001487.

[2] *See* 131 Nev. __, 357 P.3d 365, 377 (Nev. 2015).

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prepare and the witness had to be available contemplating the need to put on its own case-in-chief. SFR incorporates by reference its arguments regarding *Frazier* and the factors that the court needs to analyze. *See* SFR's MOC at pg. 5-6. This court has granted the Bank expert fees in the amount of $2,750 in Case A-15-727274-C. Here, SFR is merely seeking $2,090.00. Accordingly, the Bank's request must be denied

CONCLUSION

For the reasons stated, SFR's memorandum of costs should be granted in its entirety in the amount of $4,34476.

DATED this 29th day of August, 2018.

KIM GILBERT EBRON

/s/*Jacqueline A. Gilbert*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August 2018, pursuant to NRCP 5(b), I served via the Eighth Judicial District Court electronic filing system, the foregoing **SFR INVESTMENTS POOL 1, LLC'S OPPOSITION TO MOTION TO RETAX COSTS AND TO SETTLE MEMORANDUM OF COSTS AND DISBURSEMENTS FILED BY PLAINTIFF/COUNTERDEFENDANT DEUTSCHE BANK NATIONAL TRUST COMPANY**, to the following parties:

"Jamie Hendrickson, Esq." . (jhendrickson@wrightlegal.net)

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Sara Aslinger . (saslinger@wrightlegal.net)

Melanie Morgan (melanie.morgan@akerman.com)

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/s/ Caryn R. Schiffman
An employee of KIM GILBERT EBRON

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Steven D. Grierson
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9,

Plaintiff,

v.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNERS ASSOCIATION, INC.; DOE INDIVIDUALS I through X, inclusive: and ROE CORPORATIONS I through X, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter-Claimant/Cross-Claimant,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9; NATIONSTAR MORTGAGE, LLC, a Delaware limited liability company; ROMY SCHNITZER-COOK, fka ROMY HOYER, an individual; and STEVEN ROY COOK, an individual,

Counter-Defendants/Cross-Defendants.

Case No.: A-15-728840-C

Dept.: XXXI

ORDER GRANTING IN PART AND DENYING IN PART MOTION TO RETAX COSTS AND TO SETTLE MEMORANDUM OF COSTS AND DISBURSEMENTS FILED BY PLAINTIFF/COUNTERDEFENDANT DEUTSCHE BANK NATIONAL TRUST COMPANY

SEP 27 '18 AM09:25

Case Number: A-15-728840-C

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Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9's Motion to Retax Costs and to Settle Memorandum of Costs and Disbursements, having been filed on August 27, 2018 and having come on for hearing on September 6, 2018; the Court, having reviewed all pleadings and papers on file, and having heard arguments from all parties, finds as follows:

IT IS ORDERED Deutsche's Motion to Retax is GRANTED IN PART and DENIED IN PART.

IT IS FURTHER ORDERED Deutsche's Motion to Retax shall be GRANTED as to SFR's Expert Witness Fees, reduced from $2,090.00 to $1,690.00.

IT IS FURTHER ORDERED Deutsche's Motion to Retax is DENIED as to all other aspects.

IT IS FURTHER ORDERED SFR's Expert Witness Fees shall be reduced to $1,690.00.

IT IS FURTHER ORDERED SFR is awarded costs in the amount of $3,944.76.

IT IS SO ORDERED.

Dated this 2 day of October, 2018.

JOANNA S. KISHNER

DISTRICT COURT JUDGE

DATED this ___ day of September, 2018.

Submitted by:
KIM GILBERT EBRON

JACQUELINE A. GILBERT, ESQ.
Nevada Bar No. 10593
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DATED this ___day of September, 2018.

Approved as to form and content by:
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9,

Plaintiff,

v.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNERS ASSOCIATION, INC.; DOE INDIVIDUALS I through X, inclusive: and ROE CORPORATIONS I through X, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter-Claimant/Cross-Claimant,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9; NATIONSTAR MORTGAGE, LLC, a Delaware limited liability company; ROMY SCHNITZER-COOK, fka ROMY HOYER, an individual; and STEVEN ROY COOK, an individual,

Counter-Defendants/Cross-Defendants.

Case No.: A-15-728840-C

Dept.: XXXI

NOTICE OF ENTRY OF ORDER GRANTING IN PART MOTION TO RETAX COSTS AND TO SETTLE MEMORANDUM OF COSTS AND DISBURSEMENTS FILED BY PLAINTIFF/COUNTERDEFENDANT DEUTSCHE BANK NATIONAL TRUST COMPANY

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TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that an **ORDER GRANTING IN PART MOTION TO RETAX COSTS AND TO SETTLE MEMORANDUM OF COSTS AND DISBURSEMENTS FILED BY PLAINTIFF/COUNTERDEFENDANT DEUTSCHE BANK NATIONAL TRUST COMPANY** has been entered by this Court on the 10th day of October, 2018, in the above-captioned matter. A copy of said Order is attached hereto as **Exhibit A.**

Dated: October 12, 2018

AKERMAN LLP

/s/ Thera A. Cooper

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 12th day of October, 2018, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING IN PART MOTION TO RETAX COSTS AND TO SETTLE MEMORANDUM OF COSTS AND DISBURSEMENTS FILED BY PLAINTIFF/COUNTERDEFENDANT DEUTSCHE BANK NATIONAL TRUST COMPANY,** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

Kim Gilbert Ebron	
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/s/ Christine Weiss
An employee of AKERMAN LLP

EXHIBIT A

EXHIBIT A

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CLERK OF THE COURT

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9,

Plaintiff,

v.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNERS ASSOCIATION, INC.; DOE INDIVIDUALS I through X, inclusive: and ROE CORPORATIONS I through X, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter-Claimant/Cross-Claimant,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9; NATIONSTAR MORTGAGE, LLC, a Delaware limited liability company; ROMY SCHNITZER-COOK, fka ROMY HOYER, an individual; and STEVEN ROY COOK, an individual,

Counter-Defendants/Cross-Defendants.

Case No.: A-15-728840-C

Dept.: XXXI

ORDER GRANTING IN PART AND DENYING IN PART MOTION TO RETAX COSTS AND TO SETTLE MEMORANDUM OF COSTS AND DISBURSEMENTS FILED BY PLAINTIFF/COUNTERDEFENDANT DEUTSCHE BANK NATIONAL TRUST COMPANY

SEP 27 '18 AM09:25

Case Number: A-15-728840-C

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Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9's Motion to Retax Costs and to Settle Memorandum of Costs and Disbursements, having been filed on August 27, 2018 and having come on for hearing on September 6, 2018; the Court, having reviewed all pleadings and papers on file, and having heard arguments from all parties, finds as follows:

IT IS ORDERED Deutsche's Motion to Retax is GRANTED IN PART and DENIED IN PART.

IT IS FURTHER ORDERED Deutsche's Motion to Retax shall be GRANTED as to SFR's Expert Witness Fees, reduced from $2,090.00 to $1,690.00.

IT IS FURTHER ORDERED Deutsche's Motion to Retax is DENIED as to all other aspects.

IT IS FURTHER ORDERED SFR's Expert Witness Fees shall be reduced to $1,690.00.

IT IS FURTHER ORDERED SFR is awarded costs in the amount of $3,944.76.

IT IS SO ORDERED.

Dated this 2 day of October, 2018.

JOANNA S. KISHNER

DISTRICT COURT JUDGE

DATED this ___ day of September, 2018.

Submitted by:
KIM GILBERT EBRON

JACQUELINE A. GILBERT, ESQ.
Nevada Bar No. 10593
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Attorney for SFR Investments Pool 1, LLC

DATED this ___day of September, 2018.

Approved as to form and content by:
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9,

Plaintiff,

v.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNERS ASSOCIATION, INC.; DOE INDIVIDUALS I through X, inclusive: and ROE CORPORATIONS I through X, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter-Claimant/Cross-Claimant,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9; NATIONSTAR MORTGAGE, LLC, a Delaware limited liability company; ROMY SCHNITZER-COOK, fka ROMY HOYER, an individual; and STEVEN ROY COOK, an individual,

Counter-Defendants/Cross-Defendants.

Case No.: A-15-728840-C

Dept.: XXXI

NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSION OF LAW

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TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that the **FINDINGS OF FACT AND CONCLUSION OF LAW** has been entered by this Court on the 13th day of August, 2018, in the above-captioned matter. A copy of said Order is attached hereto as **Exhibit A.**

DATED this 7th day of December, 2018

AKERMAN LLP

/s/ Thera A. Cooper
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of December, 2018, and pursuant to NRCP 5(b), I served via the Clark County electronic filing system a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSION OF LAW,** addressed to:

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KGE E-Service List	eservice@kgelegal.com
Michael L. Sturm	mike@kgelegal.com
Tomas Valerio	staff@kgelegal.com

/s/ Doug J. Layne
An employee of AKERMAN LLP

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EXHIBIT A

EXHIBIT A

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8/13/2018 3:54 PM
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN-PASS-THROUGH CERTIFICATES, SERIES 2006-9,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNER'S ASSOCIATION, INC., is a Nevada non-profit corporation; DOE INDIVIDUALS I through X inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter/Cross-Claimant,

vs.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTAGE LOAN

Case No.: A-15-728840-C

Dept. No. XXXI

FINDINGS OF FACT AND CONCLUSIONS OF LAW

☐ Non-Jury Disposed After Trial Start
☒ Non-Jury Judgment Reached
☐ Transferred before Trial
☐ Jury Disposed After Trial Start
☐ Jury Verdict Reached
☐ Other - _____

JUN 29 '18 PM01:30*

Case Number: A-15-728840-C

TRUST MORTGAGE LOAN-PASS-THROUGH CERTIFICATES, SERIES 2006-9; NATIONSTAR MORTGAGE, LLC, a Delaware limited liability company; ROMY SCHNITZER-COOK, fka ROMY HOYER, an individual; and STEVEN ROY COOK, an individual.

Counter/Cross-Defendants.

This matter came before the Court for trial on June 18, 19, 2018. Karen L. Hanks, Esq. and Diana S. Ebron, Esq. appeared on behalf of SFR Investments Pool 1, LLC ("SFR"). Melanie Morgan, Esq. and Jared Sechrist, Esq. appeared on behalf of Deutsche Bank National Trust Company ("Deutsche Bank" or "Bank"). On the first day of trial, the parties agreed to SFR's voluntary dismissal of its slander of title claim against the Bank and Nationstar Mortgage, LLC and the parties further agreed to the Bank's voluntary dismissal of its unjust enrichment claim. At the close of the Bank's case in chief, SFR brought several NRCP 52(c) motions. Having reviewed and considered the facts, testimony of witnesses and arguments of counsel, for the reasons stated on the record, and good cause appearing, the Court makes the following Findings of Fact and Conclusions of Law:[1]

FINDINGS OF FACT

1. In 1991, Nevada adopted the Uniform Common Interest Ownership Act as NRS 116, including NRS 116.3116(2).

2. On January 12, 1979, the Association perfected and gave notice of its lien by recording its Declaration of Covenants, Conditions, and Restrictions ("CC&Rs") in the Official Records of the Clark County Recorder in Book No. 995 as Instrument No. 954904. (Ex. 1.)

3. On June 14, 2001, the Association recorded its Second Amendment to Declaration of Covenants and Restrictions in Book No. 20010614, Instrument No. 00731. (Ex. 2.)

4. On September 7, 2006, a Quitclaim Deed transferring the Property to Romy Hoyer ("Hoyer") was recorded in the Official Records of the Clark County Recorder as Instrument No. 200609070004072. (Ex. 3.)

[1] Any findings of fact that are more appropriately conclusions of law shall be so deemed. Any conclusions of law that are more appropriately findings of fact shall be so deemed.

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5. On September 7, 2006, a Deed of Trust in favor of Countrywide Bank, N.A. was recorded in the Official Records of the Clark County Recorder as Instrument No. 200609070004073 ("DOT"). (Ex. 4.)

6. On August 12, 2008, a Quitclaim Deed transferring the Property to Hoyer and Steven Roy Cook ("Cook") was recorded in the Official Records of the Clark County Recorder as Instrument No. 200808120003911. (Ex. 7.)

7. On February 16, 2011, a Quitclaim Deed transferring the Property to Romy Schnitzer-Cook and Cook (collectively, the "Borrowers") was recorded in the Official Records of the Clark County Recorder as Instrument No. 201102160004125. (Ex. 11.)

8. On March 5, 2012, an Assignment of Deed of Trust transferring the DOT to Bank of America, N.A., Successor by Merger to BAC Home Loans Servicing LP, fka Countrywide Home Loans Servicing LP ("BANA") was recorded in the Official Records of the Clark County Recorder as Instrument No. 201203050002412. (Ex. 12.)

9. On May 1, 2012, the Association, through its agent, Nevada Association Services, Inc. ("NAS"), recorded a Notice of Delinquent Assessment Lien ("NODA") in the Official Records of the Clark County Recorder as Instrument No. 201205010001274. Pursuant to NRS 116.31162(1)(a), the NODA states the amount of assessments and other sums due, describes the unit which the lien is imposed, and names the record owner of the unit. (Ex. 13.)

10. Pursuant to NRS 116.31162(1)(a), NAS mailed the NODA to the Borrowers. (Ex. 21 at 228-276.)

11. Pursuant to NRS 116.31162(b), after more than 30 days elapsed from the date of mailing NODA, on June 28, 2012, NAS recorded a Notice of Default and Election to Sell Under Homeowners Association Lien ("Notice of Default") in the Official Records of the Clark County Recorder as Instrument No. 201206280001433. (Ex. 14.) The Notice of Default contains the same information as the NODA, and describes the deficiency, states the name and address of the person authorized to enforce the lien and contains in 14-point bold type: WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE! (*Id.*)

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12. Pursuant to NRS 116.31162(3) and NRS 116.31163, NAS mailed the Notice of Default to numerous parties, including in relevant part, to the Borrowers and BANA. (Ex. 21 at 298-370.)

13. On January 11, 2013, an Assignment of Deed of Trust transferring the DOT to Deutsche was recorded in the Official Records of the Clark County Recorder as Instrument No. 201301110000737. (Ex. 15.)

14. Pursuant to NRS 116.311635, after expiration of 90 days, on February 22, 2013, the Association, NAS recorded a Notice of Foreclosure Sale ("Notice of Sale") in the Official Records of the Clark County Recorder as Instrument No. 201302220001271. (Ex. 16.) Pursuant to NRS 116.311635(3), the Notice of Sale contains the amount necessary to satisfy the lien and contains 14-bold type: WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL NEVADA ASSOCIATION SERVICES, INC. AT (702) 804-8885. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT 1-877-829-9907 IMMEDIATELY. (*Id.*)

15. As the Notice of Sale references the NODA, the Association's lien included assessments pursuant to NRS 116.3116 and, therefore, included amounts that constituted the super-priority portion of the lien.

16. Pursuant to NRS 116.311635, NAS (1) posted the Notice of Sale on the Property in a conspicuous place; (2) posted the Notice of Sale at six public places within Clark County for 20 consecutive days; and (3) published the Notice of Sale in the Nevada Legal News for three consecutive weeks. (Ex. 21 at 393; 403; 424-428.)

17. NAS mailed the Notice of Sale to numerous parties, including in relevant part, to the Borrowers, Deutsche Bank, and the Ombudsmen. (Ex. 21 at 404-417.)

18. On September 12, 2012, NAS held a public non-judicial foreclosure auction for the Property and SFR placed the highest cash bid of $9,600.00. (Ex. 17.)

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19. Pursuant to NRS 116.31164(3)(a), after SFR paid the money to NAS, NAS made, executed, and delivered a deed to SFR, which vested title in SFR. (Ex. 17.)

20. On April 15, 2013, a Foreclosure Deed was recorded in the Official Records of the Clark County Recorder as Instrument No. 201304150002295 ("Foreclosure Deed"). (Ex. 17.)

21. The Association foreclosure sale met all the requirements of NRS 116.31164.

CONCLUSIONS OF LAW

Standing

1. At the conclusion of the Bank's case in chief, SFR brought an NRCP 52(c) motion wherein it argued that the Bank lacked standing citing Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992), based on its failure to produce the original wet-ink promissory note.

2. Standing requires proof of three elements: (1) the party must have suffered an injury in fact — an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) there must be a causal connection between the injury and the conduct complained of—the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court; and (3) it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992) (internal quotations, alterations, and citations omitted).

3. After considering the arguments of counsel, the Court declined to render a ruling on this issue until the close of all the evidence.

Association Foreclosure Sale Was Proper and Extinguished the Deed of Trust

4. At the conclusion of the Bank's case in chief, SFR brought an NRCP 52(c) Motion on the issue of compliance with NRS 116. The court granted SFR's Motion.

5. In Nevada, a homeowners association has a lien for delinquent assessments, a portion of which has priority over a first deed of trust. NRS 116.3116(2); SFR Investments Pool I, LLC v. U.S. Bank, N.A., 130 Nev. ___, ___, 334 P.3d 408, 419 (2014). In this case, the Deed of Trust was extinguished by the Association's non-judicial foreclosure sale on November 8, 2013. SFR, 334 P.3d at 419.

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6. The Association's non-judicial foreclosure sale vested title in SFR "without equity or right of redemption." Id. at 412 (citing NRS 116.31166(3)). According to the Nevada Supreme Court, sales without equity or right of redemption vests the purchaser with absolute title:

> [T]he law authorizing the mortgagee to sell is, in our opinion, so thoroughly settled that it cannot now admit of a question. Such being the right of the mortgagee, it follows as a necessary consequence that the purchaser from him obtains an absolute legal title as complete, perfect and indefeasible as can exist or be acquired by purchase; and a sale, upon due notice to the mortgagor, whether at public or private sale, forecloses all equity of redemption as completely as a decree of court.

In re Grant, 303 B.R. 205, 209 (Bankr. D. Nev. 2003) (quoting Bryant v. Carson River Lumbering Co., 3 Nev. 313, 317–18 (1867)). As the dissent in SFR explained, "the owner, as well as the first security, will have no right to redeem the property under the majority's holding." Id. at 422 (citing NRS 116.31166(3)) and Bldg. Energetix Corp. v. EHE, LP, 129 Nev. ___, ___, 294 P.3d 1228, 1233 (2013) (recognizing that there is no right to redeem after a Chapter 107 non-judicial foreclosure sale because a sale under that chapter 'vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption" (quoting NRS 107.080(5)). This is consistent with long-standing Nevada non-judicial foreclosure law that "[i]f the sale is properly, lawfully and fairly carried out, [the Bank] cannot unilaterally create a right of redemption in [itself]." Golden v. Tomiyasu, 79 Nev. 503, 518, 387 P.2d 989, 997 (1963).

Presumptions of Validity of the Association Foreclosure Sale and Deed

7. Under Nevada law, foreclosure sales and the resulting deeds are presumed valid. Breliant v. Preferred Equities Corp., 112 Nev. 663, 669, 918 P.2d 314, 319 (1996) (recorded title is presumed valid); NRS 47.250(16)-(18) (there are disputable presumptions "that the law has been obeyed"; "that a trustee or other person, whose duty it was to convey real property to a particular person, has actually conveyed to that person, when such presumption is necessary to perfect the title of such person or a successor in interest"; "that private transactions have been fair and regular"; and "that the ordinary course of business has been followed.") As a result, it is presumed that (1) the Association and NAS obeyed the law; (2) the Property was conveyed to SFR and that this conveyance was valid; (3) the Association non-judicial foreclosure sale was "fair and regular;"

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and (4) the Association foreclosure proceedings were conducted in the "ordinary course of business." Breliant, 112 Nev. at 669; NRS 47.250(16)-(18).

"A presumption not only fixes the burden of going forward with evidence, but it also shifts the burden of proof." Yeager v. Harrah's Club, Inc., 111 Nev. 830, 834, 897 P.2d 1093, 1095 (1995) (citing Vancheri v. GNLV Corp., 105 Nev. 417, 421, 777 P.2d 366, 368 (1989)). "These presumptions impose on the party against whom it is directed the burden of proving that the nonexistence of the presumed fact is more probable than its existence." Id. (citing NRS 47.180.).

8. Here, the Bank did not meet its burden of overcoming the presumptions as outlined in NRS 47.250(16)-(18).

a. **First,** the Bank presented no evidence to refute the Association's and NAS' compliance with the provisions of NRS 116, or "obey[ance of] the law." In fact, all the evidence establishes that the Association/NAS complied in all respects with NRS 116.

b. **Second**, as the recorded Association foreclosure deed evidences that title to the Property was conveyed to SFR, the Bank similarly did not overcome the presumption of conveyance.

c. **Third,** the Bank did not present any evidence to refute the presumption that the Association non-judicial foreclosure sale was "fair and regular," particularly in light of the evidence before this Court that (1) NAS published the NOS in a newspaper in general circulation in Clark County for three consecutive weeks; (2) NAS posted the NOS on the Property in a conspicuous place; (3) NAS posted the NOS in three public places in Clark County; (4) the Association's non-judicial foreclosure sale was held in a public place, in the county where the Association is located; and (5) the Property was sold to the highest cash bidder.

d. **Finally**, the Bank did not overcome the presumption that the Association non-judicial foreclosure sale was conducted in the "ordinary course of business."

Because the Bank did not present any evidence to rebut the presumptions, the Bank did not meet its burden to overcome these presumptions. As a result, the Association non-judicial foreclosure sale and the recorded Association foreclosure deed are valid.

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8. While the Bank argued NAS' failure to properly distribute the excess sale proceeds properly after the sale constituted a non-compliance, this, even if true, would not invalidate the sale as to SFR. Specifically, NRS 116.31166 provides that "[t]he receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money."

Conclusive Proof of Deed Recitals

9. A foreclosure deed issued pursuant to NRS 116.31164 that "recit[es] compliance with notice provisions of NRS 116.31162 through NRS 116.31168 "is conclusive" as to the recitals "against the unit's former owner, his or her heirs and assigns and all other persons." SFR, 334 P.3d at 411-12 (citing NRS 116.31166(2)). "If the trustee's deed recites that all statutory notice requirements and procedures required by law for the conduct of the foreclosure have been satisfied, a rebuttable presumption arises that the sale has been conducted regularly and properly; this presumption is **conclusive** as to a bona fide purchaser." Moeller v. Lien, 25 Cal.App.4th 822, 831-832, 30 Cal.Rptr.2d 777, 783 (1994) (emphasis added); see also, 4 Miller & Starr, Cal. Real Estate (3d ed. 2000) Deeds of Trust and Mortgages § 10:211, pp. 647-652; 2 Bernhardt, Cal. Mortgage and Deed of Trust Practice (Cont.Ed.Bar 2d ed. 1990) § 7:59, pp. 476-477). This conclusive proof is key because "[t]he conclusive presumption precludes an attack by the trustor on the trustee's sale to a bona fide purchaser even where the trustee wrongfully rejected a proper tender of reinstatement by the trustor[,]" and even where "the sale price was only 25 percent of the value of the property. . ." Moeller, 25 Cal.App.4th at 831-833. There is a sanctity and finality to foreclosure sales where the deed contains the conclusive recitals. Cf. Moeller, 25 Cal.App.4th at 833, 30 Cal.Rptr.2d at 784.

10. In Nevada, unlike California, the conclusive proof does not require that the purchaser be a bona fide purchaser to rely on the recitals. See Pro-Max Corp. v. Feenstra, 117 Nev. 90, 95, 16 P.3d 1074, 1077-78 (2001), opinion reinstated on reh'g (Jan. 31, 2001) (holding that no limitation of bona fide purchaser can be read into a statute providing a conclusive presumption).

The Sale Was Not Affected by Fraud, Unfairness or Oppression

11. At the conclusion of the Bank's case in chief, SFR brought an NRCP 52(c) Motion

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on the issue of the Bank's claim that the sale was affected by fraud, oppression or unfairness. The court granted SFR's Motion, finding because the Association/NAS complied in all respects with NRS Chapter 116, this Court concludes the sale was not affected by fraud, unfairness or oppression.

12. In this case, the Bank asks this Court to ignore that the sale in this case satisfied all requirements of NRS 116 and find that the sale was affected by fraud, unfairness or oppression based on price alone. This the Court cannot do. Under Nevada law, a Court cannot "invalidate a 'legally made' sale absent actual evidence of fraud, fraud, unfairness, or oppression" that affected the sale regardless of inadequacy of price. Nationstar Mortg., LLC v. Saticoy Bay LLC Series 2227 Shadow Canyon, 405 P.3d 641 (Nev. 2017) citing Golden v. Tomiyasu, 79 Nev. 503, 514, 387 P.2d 989, 995 (1963) (adopting the California rule that " inadequacy of price, however gross, is not in itself a sufficient ground for setting aside a trustee's sale legally made; there must be in addition proof of some element of fraud, unfairness or oppression as accounts for and brings about the inadequacy of price" (internal citations omitted) (emphasis added).

13. In Oller v. Sonoma County Land Title Co., from which Golden adopted the California rule, the court noted that even where the plaintiffs argued the price paid at auction was "grossly inadequate," unless there was evidence of fraud, unfairness or oppression in the sale process which accounted for the price, a court need not even determine the value of the property:

> "Since inadequacy of price is not alone ground for setting aside the sale, the failure of the court to find upon the value of the property is immaterial." Necessarily, therefore, since the record discloses no irregularity in the foreclosure sale nor any unfairness on the party of the trustee or injury to the plaintiffs by any wrongful act of the trustee . . . the alleged inadequacy in the selling price, if any, could not have resulted from any irregularity in the conduct of the sale or unfairness on the part of the trustee.

290 P.2d 880, 882 (Cal.Ct.App. 1955) (internal citation omitted).

14. Here, while the Bank offered expert testimony regarding the retrospective market value of the Property, the Court concludes this opinion of value is irrelevant because the Bank failed to show any evidence of fraud, unfairness, or oppression associated with the sale in this case that "accounted for or brought about" the price paid by SFR.

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15. The Bank argued the restrictive covenant language in Section 12 – Mortgage Protection of the CC&Rs arose to unfairness. The Court is not persuaded by this argument. Interpreting an exact provision like the one at issue here, the Nevada Supreme Court rejected a similar argument, and found that the association does not choose to extinguish the deed of trust, instead, by operation of law the deed of trust is extinguished via an NRS 116 sale. U.S. Bank v. SFR Investments Pool 1, LLC, No. 71414, (unpublished order of affirmance) March 15, 2018. Additionally, the CC&Rs were amended in 2001 to include language that the association's lien "may be foreclosed in the same manner as is provided in the laws of the State of Nevada…in Nevada Revised Statutes Chapter 116." (Ex. 2.) Finally, the evidence offered at trial showed that neither the Bank nor its predecessor in interest relied in any way on the CC&RS, and no evidence was offered to show that the provision in any way affected the sale itself.

16. The Bank also argued that NAS' policy in 2012/2013, in which NAS required borrower authorization to release account specific information to third parties arose to unfairness. This argument is equally unavailing as there was no evidence the Bank or its predecessor in interest was affected in any way by this policy with regard to this Property, let alone that this policy affected the actual sale.

17. Because the Bank did not offer any evidence of fraud, unfairness, or oppression associated with the sale in this case that "accounted for or brought about" the price paid by SFR, The Bank is not entitled to unwind the sale or to obtain its requested relief that the Deed of Trust remain against the Property.

The Association Foreclosed on its Entire Lien, which Included the Super-priority Portion

18. At the conclusion of the Bank's case in chief, SFR brought an NRCP 52(c) Motion on the issue of the Bank's claim that it tendered the super-priority amount. The Court granted SFR's Motion, concluding that the Bank offered no evidence it paid the super-priority amount.

19. The notices constitute prima facie evidence that the Association foreclosed on the super-priority portion of the lien. PNC Bank v. Saticoy Bay, No. 69595 (unpublished order May 25, 2017); PNC Bank v. Saticoy Bay, No. 69201 (unpublished order June 15, 2017). Furthermore, the deed language conveying "all its right, title and interest" constitutes prima facie evidence that

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the Association foreclosed on the super-priority portion of the lien. BNY Mellon v. K&P Homes, LLC, No. 71273 (unpublished order October 20, 2017).

20. Here, the Bank did not overcome the prima facie evidence that the Association foreclosed on the super-priority portion of its lien. The Bank offered no evidence that it paid the super-priority portion of the lien prior to the sale.

SFR's BFP Status

21. Because the Bank did not present sufficient evidence to justify setting aside the sale, this Court does not need to address whether SFR was a bona fide purchaser. Federal National Mortgage Association v. SFR Investments Pool 1, LLC, No. 68495 (unpublished order of affirmance) December 14, 2017.

ORDER

1. IT IS HEREBY ORDERED, ADJUDGED, AND DECREED the DOT recorded against real property located at 3950 Edgemoor Way, Las Vegas, Nevada 89121, Parcel No. 161-18-810-015, recorded in the Official Records of the Clark County Recorder as Instrument No. 200609070004073, was extinguished by the March 15, 2013 homeowners association foreclosure sale held on behalf of Forest Hills Homeowners Association.

2. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan-Pass-Through Certificates, Series 2006-9, Nationstar Mortgage, LLC, their predecessors in interest and successors and assigns, have no further right, title or interest in real property located at 3950 Edgemoor Way, Las Vegas, Nevada 89121, Parcel No. 161-18-810-015, and are hereby permanently enjoined from taking any further action to enforce the now extinguished DOT, including but not limited to, clouding title, initiating or continuing to initiate foreclosure proceedings, or taking any other actions to sell or transfer the Property.

3. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that title to real property located at 3950 Edgemoor Way, Las Vegas, Nevada 89121, Parcel No. 161-18-810-015 is hereby quieted in favor of SFR.

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4. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the lis pendens recorded in the Official Records of the Clark County Recorder as Instrument No. 201512150003484 is expunged.

5. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the lis pendens recorded in the Official Records of the Clark County Recorder as Instrument No. 201604010002360 is expunged.

IT IS SO ORDERED.

DATED this 9 day of April, 2018.

DISTRICT COURT JUDGE

Respectfully Submitted by:

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9,

Plaintiff,

v.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNERS ASSOCIATION, INC.; DOE INDIVIDUALS I through X, inclusive: and ROE CORPORATIONS I through X, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter-Claimant/Cross-Claimant,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9; NATIONSTAR MORTGAGE, LLC, a Delaware limited liability company; ROMY SCHNITZER-COOK, fka ROMY HOYER, an individual; and STEVEN ROY COOK, an individual,

Counter-Defendants/Cross-Defendants.

Case No.: A-15-728840-C

Dept.: XXXI

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE AND NATIONSTAR MORTGAGE LLC'S NOTICE OF APPEAL

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Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9 and Nationstar Mortgage LLC appeal to the Supreme Court of Nevada from this Court's:

1. Findings of Fact, Conclusions of Law entered on December 7, 2018; and

2. All other orders made appealable thereby.

DATED this 7th day of January, 2019

AKERMAN LLP

/s/ Thera A. Cooper
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 7th day of January, 2019, I caused to be served a true and correct copy of the foregoing **DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE AND NATIONSTAR MORTGAGE LLC'S NOTICE OF APPEAL,** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9,

Plaintiff,

v.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNERS ASSOCIATION, INC.; DOE INDIVIDUALS I through X, inclusive: and ROE CORPORATIONS I through X, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter-Claimant/Cross-Claimant,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9; NATIONSTAR MORTGAGE, LLC, a Delaware limited liability company; ROMY SCHNITZER-COOK, fka ROMY HOYER, an individual; and STEVEN ROY COOK, an individual,

Counter-Defendants/Cross-Defendants.

Case No.: A-15-728840-C

Dept.: XXXI

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE AND NATIONSTAR MORTGAGE LLC'S CASE APPEAL STATEMENT

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DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9 AND NATIONSTAR MORTGAGE LLC AND NATIONSTAR MORTGAGE LLC'S CASE APPEAL STATEMENT

Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9 and Nationstar Mortgage LLC submit their case appeal statement:

1. Deutsche and Nationstar are the appellants filing this case appeal statement.

2. The order appealed from is the Findings of Fact, Conclusions of Law and Order entered December 7, 2018 and any other order made appealable thereby.

3. Deutsche and Nationstar's counsel are Melanie D. Morgan, Esq. and Thera A. Cooper, Esq. of Akerman LLP, 1635 Village Center Circle, Suite 200, Las Vegas, Nevada 89134.

4. Respondent SFR Investments Pools 1, LLC trial counsel were Diana S. Ebron, Esq., Karen L. Hanks, Esq., Jacqueline A. Gilbert, Esq., Jason G. Martinez, Esq., Kim Elbert Ebron, 7625 Dean Martin Drive, Suite 100, Las Vegas, Nevada 89139.

5. Deutsche and Nationstar's counsel are licensed to practice law in Nevada. Respondent's trial counsel are licensed to practice law in Nevada.

6. Appellants were represented by retained counsel in the district court.

7. Appellants are represented by retained counsel on appeal.

8. Appellants were not granted leave to proceed in forma pauperis by the district court.

9. The date proceedings commenced in the district court was December 10, 2015.

10. SFR alleges it owns the property located at 3950 Edgemoor Way, Las Vegas, Nevada, 89121, APN #161-18-810-015 (**property**) free and clear of the deed of trust as a result of an HOA foreclosure sale. On March 15, 2013, the HOA foreclosed on its lien and SFR acquired the property. On December 10, 2015, Deutsche filed this lawsuit seeking to quiet title. SFR filed its answer, counterclaim and cross-claim on March 29, 2016 against Deutsche and Nationstar. A first amended complaint was filed on March 21, 2017.

Trial in the subject action took place on June 18 and 19, 2018. After review and consideration of the evidence and arguments presented by the parties, on August 9, 2018, the Court issued a Findings of Fact and Conclusions of Law and Judgment ordering the deed of trust was extinguished by the HOA sale, Deutsche and Nationstar have no right, title, or interest in the property, quieting title in SFR, and expunging the lis pendens.

11. This case has not previously been the subject of an appeal to or original writ proceeding in the Supreme Court.

12. This appeal does not involve child custody or visitation.

13. This appeal involves the possibility of settlement.

DATED this 7th day of January, 2019

AKERMAN LLP

/s/ Thera A. Cooper
MELANIE D. MORGAN, ESQ.
Nevada Bar No. 8215
THERA A. COOPER, ESQ.
Nevada Bar No. 13468
1635 Village Center Circle, Suite 200
Las Vegas, Nevada 89134

Attorneys for Plaintiff and Counter-Defendant/Cross-Defendant Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 7th day of January, 2019, I caused to be served a true and correct copy of the foregoing **DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE AND NATIONSTAR MORTGAGE LLC'S CASE APPEAL STATEMENT,** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

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1/15/2019 11:10 AM
Steven D. Grierson
CLERK OF THE COURT

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Attorneys for Plaintiff and Counter-Defendant/Cross-Defendant Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9,

Plaintiff,

v.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNERS ASSOCIATION, INC.; DOE INDIVIDUALS I through X, inclusive: and ROE CORPORATIONS I through X, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter-Claimant/Cross-Claimant,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9; NATIONSTAR MORTGAGE, LLC, a Delaware limited liability company; ROMY SCHNITZER-COOK, fka ROMY HOYER, an individual; and STEVEN ROY COOK, an individual,

Counter-Defendants/Cross-Defendants.

Case No.: A-15-728840-C

Dept.: XXXI

NOTICE OF POSTING OF APPEAL BOND

AKERMAN LLP
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LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

NOTICE OF POSTING OF APPEAL BOND

TO ALL PARTIES AND TO ALL INTERESTED PARTIES HEREIN:

Plaintiff and Counter-Defendant/Cross-Defendant Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9, by and through its attorneys at the law firm of Akerman LLC, hereby lodges with this Court an APPEAL BOND in the amount of Five Hundred Dollars and No Cents ($500.00) with the Clerk of the Court, a copy of the receipt is attached hereto as **Exhibit A.**

DATED this 15th day of January, 2019

AKERMAN LLP

/s/ Thera A. Cooper
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THERA A. COOPER, ESQ.
Nevada Bar No. 13468
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 15th day of January, 2019, I caused to be served a true and correct copy of the foregoing **NOTICE OF POSTING OF APPEAL BOND,** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

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KGE Legal Staff	staff@kgelega.com
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An employee of AKERMAN LLP

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EXHIBIT A

EXHIBIT A

OFFICIAL RECEIPT

District Court Clerk of the Court 200 Lewis Ave, 3rd Floor Las Vegas, NV 89101

Payor
Akerman LLP

Receipt No.
2019-00997-CCCLK

Transaction Date
01/7/2019

Description	Amount Paid
On Behalf Of Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Tr A-15-728840-C Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Tr, Plaintiff(s) vs. SFR Investments Pool 1, LLC, Defendant(s) Appeal Bond	
Appeal Bond	500.00
SUBTOTAL	**500.00**
PAYMENT TOTAL	**500.00**
Check (Ref #26001496) Tendered	500.00
Total Tendered	**500.00**
Change	0.00

Notice of Appeal filed 1/7/19

01/07/2019	Cashier	Audit
03:56 PM	Station AIKO	36343699

OFFICIAL RECEIPT

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12/17/2019 11:05 AM
Steven D. Grierson
CLERK OF THE COURT

REQT
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Attorneys for Plaintiff and Counter-Defendant/Cross-Defendant Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9,

Plaintiff,

v.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNERS ASSOCIATION, INC.; DOE INDIVIDUALS I through X, inclusive: and ROE CORPORATIONS I through X, inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Counter-Claimant/Cross-Claimant,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH CERTIFICATES, SERIES 2006-9; NATIONSTAR MORTGAGE, LLC, a Delaware limited liability company; ROMY SCHNITZER-COOK, fka ROMY HOYER, an individual; and STEVEN ROY COOK, an individual,

Counter-Defendants/Cross-Defendants.

Case No.: A-15-728840-C

Dept.: XXXI

REQUEST FOR TRANSCRIPT OF PROCEEDINGS

AKERMAN LLP
1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

TO: Sandra Harrell, court reporter, Department 31

Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9 and Nationstar Mortgage LLC request preparation of a transcript of the proceedings before the district court as follows:

Judge: The Honorable Joanna S. Kishner

Date of proceeding: June 18 &19, 2018

Portions of transcript requested: Entire transcript

Number of copies required: One

I hereby certify that on December 17, 2019, I ordered the transcript listed above. Payment for the transcript will be remitted upon confirmation by the court reporter of the balance owed.

DATED this 17th day of December, 2019.

AKERMAN LLP

/s/ Rex D. Garner
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee Of Akerman LLP, and that on this 17th day of December 2019, I caused to be served a true and correct copy of the foregoing **REQUEST FOR TRANSCRIPT OF PROCEEDINGS**, in the following manner:

(ELECTRONIC SERVICE) Pursuant to administrative order 14-2, the above-referenced document was electronically filed on the date hereof and served through the notice of electronic filing automatically generated by the court's facilities to those parties listed on the court's master service list as follows:

KIM GILBERT EBRON

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KGE E-Service List	Eservice@Kgelegal.Com
KGE Legal Staff	Staff@Kgelega.Com
Michael L. Sturm	Mike@Kgelegal.Com

/s/ Patricia Larsen
An Employee of AKERMAN LLP

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RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR HARBORVIEW MORTAGE LOAN TRUST MORTGAGE LOAN-PASS-THROUGH CERTIFICATES, SERIES 2006-9, Plaintiff, vs. SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company; FOREST HILLS HOMEOWNER'S ASSOCIATION, INC., IS A Nevada non-profit corporation; DOE INDIVIDUALS I through X inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE#: A-15-728840-C DEPT. XXXI

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

MONDAY, JUNE 18, 2018

RECORDER'S TRANSCRIPT
BENCH TRIAL - DAY 1

APPEARANCES:

For the Plaintiff:	MELANIE D. MORGAN, ESQ. JARED SECHRIST, ESQ.
For the Defendant:	KAREN HANKS, ESQ. DIANA S. EBRON, ESQ.

RECORDED BY: SANDRA PRUCHNIC, COURT RECORDER

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Las Vegas, Nevada, Monday, June 18, 2018

[Case called at 8:57 a.m.]

THE COURT: Okay, on the record in case number 728840, Deutsche Bank versus -- sorry, I'll say the whole name. Deutsche Bank National Trust Company as trustee for Harborview Mortgage Loan Trust Plaintiffs versus SFR Investment Pools 1, LLC is the way that we show the caption currently is. Is that the correct caption?

Counsel, why don't you make your appearances?

MS. MORGAN: Melanie Morgan for Deutsche Bank and Nationstar.

MR. SECHRIST: Jared Sechrist for Deutsche Bank and Nationstar.

MS. HANKS: Karen Hanks on behalf of SFR Investment Pool 1, LLC and with me, we have Christopher Hardin [phonetic], the manager of SFR.

THE COURT: Okay, so let's make sure we got the caption correct first. Is that the correct caption?

MS. HANKS: Do you still have Forest Hills in the caption, Your Honor?

THE COURT: Caption, one minute, please. I'm looking at actually the district court printout, because once I started looking at these versus captions because once again, I've had so many captions issues.

The way the current -- I appreciate it. Thank you so much. The way the current printout from the Odyssey system through our Clerk's

Office, which is consistent with the joint pre-trial. That's not consistent with joint pre-trial, so I'm going to stop on there.

The most recent thing that we show from the court system, it says Deutsche Bank National Trust Company as Trustee for Harborview Mortgage Loan Trust Plaintiffs versus SFR Investment Pools.

And if I were to look at your 6/11 -- and the reason why you notice an entry of findings of fact and conclusions of law that the Kim Gilbert Ebron filed on June 11th is different than that.

Because what that shows is Deutsche -- what I just said, Deutsche -- actually Deutsche Bank National Trust Company as Trustee for Harborview Mortgage Loan Trust-Pass-Through Mortgage Loan Pass-Through Certificate Series 2206-9 versus SFR Investment Pools, LLC, a Nevada Limited Liability Company, Forest Hills Homeowners Association is a Nevada nonprofit corporation, DOE individuals 1 through 10, ROE Corporations 1 through 10 with a counterclaim.

SFR Pool, LLC Counter/Cross-claimant versus Deutsche Bank and I won't mention the rest, but I'll just call it Deutsche Bank, et al --

MS. MORGAN: That's okay.

THE COURT: -- for this purposes. Mortgage Electronic -- and this says Mortgage Electronic. I'm reading exactly as it says.

So it doesn't have the whole MERS. It just says Mortgage Electronic. And it says Nationstar Mortgage, LLC, a Delaware, Romy Schnitzer-Cook fka Romy Hoyer, an individual, Steven Roy Cook an individual.

However, you had previously done a stip to amend the caption,

but since I saw the caption that came over on this most recent document filed by one of the parties counsel, hence why I have to ask the question.

MS. HANKS: No, I understand. And that would have been -- that caption is accurate for that order because Forest Hills was still in it, but that's why I was asking. So my understanding, the only parties that should be out of the caption are Deutsche versus Forest Hills, the initial claim.

And then for the counterclaim, I believe the Cooks can be removed because if my memory serves me right, you did grant summary judgment against them as to SFR's counterclaim against the Cooks.

THE COURT: Okay, because I'm looking --

MS. HANKS: But that's --

THE COURT: Yeah, it's just -- it's -- you can appreciate I hate to say that's one of the reasons why --

MS. HANKS: No, I understand.

THE COURT: -- it's so important the HOA orders are non -- you know what I mean?

MS. HANKS: Right.

THE COURT: Because you could tell the Clerk's Office and us, we're --

MS. HANKS: I don't know that we would have been able to change the caption though.

THE COURT: If you submitted your order in February, when it was due, yes, you could have, because the caption would change --

MS. HANKS: Well, no, right.

THE COURT: Your order would have been --

MS. HANKS: It's only different because of when it was submitted, when we put in --

THE COURT: Right, because it was submitted --

MS. HANKS: -- but it's accurate for the motion.

THE COURT: -- four plus months late, yeah.

MS. HANKS: Yeah.

THE COURT: Okay, your 4/18 caption. Welcome, do you want to state who your client is before I continue, your client rep?

MS. MORGAN: Yes, Your Honor Keith Kovalic for Deutsche Bank and Nationstar just walked in.

THE COURT: Okay, thank you so much.

Okay, so let's walk through what your stipulation of the caption, your Exhibit A back in April 17th. Okay, blah, blah, blah. We stipulate to amended -- remove Defendants Forest Hills Homeowners Association, DOEs individuals 1 through 10 and ROE Corporations 1 through 10.

So that means it still showed -- it still should be for today's purpose Deutsche Bank entity as trustee et al, SFR et al. Forest Hills would have been removed. The DOEs would have been removed in the initial claim.

On the counterclaim and cross-claim, it's SFR versus Deutsche Bank, as well as Romy Schnitzer-Cook and Romy Hoyer, excuse me, formerly known as Romy Hoyer and Steven Roy Cook; is that correct?

MS. HANKS: And Nationstar Mortgage, LLC, yes. So I -- so my -- so what we can do is based on the order now being entered, we

could amend the caption to remove the Cooks because my understanding is summary judgment was granted in favor of SFR as to the Cooks.

THE COURT: Did you ever file that order?

MS. HANKS: We didn't file a stipulation. No, that should be part of the order, the findings of fact, conclusions of law as to the motion for summary judgment. Because my understanding was it was just not granting summary judgment in favor of --

THE COURT: Right, so the individuals --

MS. HANKS: But the homeowners.

THE COURT: -- denied and set forth on the findings -- some of the basis of the disputed facts and then denied without prejudice on the other side.

Okay, yeah, which is why you could tell our Clerk's Office is -- keeps reminding me, Judge, Judge, Judge. Okay, so I'm going to ask you to do the following.

Counsel, can you please state here in open court what the caption should read as we are here today at the first day of trial, and then see if that's a stipulation from the parties, and then request Madam Clerk make any changes necessary so that we can start off the trial with the correct caption?

MS. HANKS: Yeah, yeah. So what I believe and I'll -- I'd like to --

THE COURT: Do you want to take a sec with opposing counsel and just ask --

MS. HANKS: Oh sure, okay.

THE COURT: -- and see if they're on the same page?

[Counsel confer]

MS. HANKS: Yeah, so I think we're both in agreement and Melanie?

[Counsel confer]

MS. HANKS: So, Your Honor, we -- counsel and I spoke. We are in agreement that based on the order that was just entered on the motion for summary judgment, both sets of Cooks should be absent.

Romy Schnitzer-Cook, formerly known as Romy Hoyer, and Steven Roy Cook can be removed from the caption, because you entered a judgment against them.

Nationstar Mortgage, LLC can also be removed from the caption because I just explained to counsel that I have no -- SFR has no desire to pursue its land or title claim against Deutsche Bank or Nationstar. That was the only Nationstar was named so.

THE COURT: Okay, so is that a stipulation for voluntary dismissal?

MS. HANKS: Dismissal, yes.

THE COURT: Or what is it? There was a question mark.

MS. HANKS: I think -- that's normally what we do and that's just for oversight, didn't happen before today.

MS. MORGAN: Yeah.

MS. HANKS: So, yeah, it'd be a stipulation to dismiss, voluntary dismissal, each side bearing their own attorneys' fees and costs for the standard title against Deutsche and Nationstar.