

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 25 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

SFR INVESTMENTS POOL 1, LLC,

Plaintiff - Appellant,

v.

WELLS FARGO BANK, N.A., as Trustee
for Option One Mortgage Loan Trust 2007-
6, Asset-Backed Certificates, Series 2007-6,

Defendant - Appellee.

No. 25-754

D.C. No.

2:22-cv-00655-GMN-EJY

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Gloria M. Navarro, District Judge, Presiding

Argued and Submitted May 22, 2026
San Francisco, California

Before: COLLINS, JOHNSTONE, and DE ALBA, Circuit Judges;
Dissent by Judge COLLINS.

SFR Investments Pool 1, LLC appeals the district court's grant of summary judgment for Wells Fargo Bank, N.A. in a diversity action to quiet title. This case arises from a nonjudicial foreclosure of real property located within a

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Homeowner's Association ("HOA") in Nevada. SFR Investments purchased the real property at issue after the governing HOA foreclosed upon it. Wells Fargo contends that its first deed of trust on the real property survived the foreclosure sale, and thus SFR Investments purchased the real property subject to Wells Fargo's deed. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

1. The HOA foreclosed on a lien of inferior priority to Wells Fargo's first deed of trust. Under Nev. Rev. Stat. ("NRS") § 116.3116 *et seq.*, a HOA may foreclose on a property lien and have it receive superior status over other interests in certain instances. *See id.*; *Bank of Am., N.A. v. Arlington W. Twilight Homeowners Ass'n*, 920 F.3d 620, 621–22 (9th Cir. 2019). The Nevada statute classifies HOA liens as either of superpriority status or of subpriority status. *SFR Invs. Pool 1 v. U.S. Bank*, 334 P.3d 408, 411 (Nev. 2014), *holding modified by Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortg.*, 388 P.3d 970, 974 (Nev. 2017). "The superpriority piece, consisting of the last nine months of unpaid HOA dues and maintenance and nuisance-abatement charges, is 'prior to' a first deed of trust. The subpriority piece, consisting of all other HOA fees or assessments, is subordinate to a first deed of trust." *Id.* Thus, "[w]hen an HOA forecloses on [a] superpriority lien, the foreclosure extinguishes all junior liens, including the first deed of trust." *Deutsche Bank Tr. Co. Americas as Tr. Rali 2006QA5 v. SFR Invs. Pool 1, LLC*, 551 P.3d 837, 842 (Nev. 2024).

Because “no [foreclosure] action can be taken unless and until the HOA provides a notice of delinquent assessments pursuant to NRS 116.31162(1)(a),” a HOA “has instituted proceedings to enforce the lien for the purposes of NRS 116.3116(6) when it provides the notice of delinquent assessment.” *Saticoy Bay LLC Series 2021 Gray Eagle Way v. JPMorgan Chase Bank, N.A.*, 388 P.3d 226, 231 (Nev. 2017) (second internal quotation marks omitted) [hereinafter *Saticoy Bay*]. Here, the 2007 Notice of Lien was sufficient to serve as the notice of delinquent assessment and institute foreclosure proceedings. As required by statute, the 2007 Notice of Lien stated the amount due, a legal description of the unit, and the name of the unit’s owner of record. *See id.* (“NRS 116 does not require an association to take any particular action to enforce its lien, but that it institutes ‘an action.’” (quoting 13–01 Op. NRED, 17–18 (2012))); Nev. Rev. Stat. § 116.31162(1)). This finding is supported by the fact that all other pertinent documents in the foreclosure proceedings refer to the 2007 Notice of Lien. Thus, the 2007 Notice of Lien constitutes the action instituting the foreclosure proceedings. *See Saticoy Bay*, 388 P.3d at 231.

Because the 2007 Notice of Lien was the initiating action, the lien’s priority status was determined upon the notice’s filing. *See Deutsche Bank Tr. Co. Americas as Tr. Rali 2006QA5*, 551 P.3d at 844. SFR Investments’ arguments that the 2007 Notice of Lien contained a superpriority component are unavailing. First,

SFR Investments has not provided any evidence that the \$132.00 in unpaid assessments as of June 1, 2007, was in arrears when the lien was later recorded on or about June 20, 2007. *Id.* Second, contrary to SFR Investments' assertions, Nevada state courts have foreclosed on HOA liens where the notice of delinquent assessments contained only subpriority costs, as is the case here. *See, e.g., Silver State Schs. Credit Union v. Oella Ridge Tr.*, No-76382, 2019 WL 3061742, at *1–2 (Nev. July 11, 2019). As such, because the 2007 Notice of Lien consisted of violation and collection fees only, the lien was of subpriority status. Accordingly, we affirm the district court's findings that the HOA foreclosed on a subpriority lien and that Wells Fargo's first deed of trust survived the foreclosure sale. *See SFR Invs. Pool 1*, 334 P.3d at 411; *cf. Deutsche Bank Nat'l Tr. Co. v. Fid. Nat'l Title Ins. Co.*, 536 P.3d 915, 924 (Nev. 2023).

2. SFR Investments cannot avail itself of the doctrine of laches. "Laches is an equitable doctrine which may be invoked when delay by one party works to the disadvantage of the other, causing a change of circumstances which would make the grant of relief to the delaying party inequitable." *Miller v. Burk*, 188 P.3d 1112, 1125 (Nev. 2008). To determine whether the doctrine of laches bars a claim, we consider: "(1) whether the party inexcusably delayed bringing the challenge, (2) whether the party's inexcusable delay constitutes acquiescence to the condition the party is challenging, and (3) whether the inexcusable delay was prejudicial to

others.” *Id.* Assuming *arguendo* the doctrine is available to SFR Investments, SFR Investments has failed to establish that any of these factors weigh in its favor. SFR Investments was equally at fault for any delays in quieting title; nothing in the record indicates that Wells Fargo acquiesced to the extinguishment of its deed of trust; and SFR Investments has not shown any prejudice. Accordingly, we affirm the district court’s finding that Wells Fargo’s claims are not barred by the doctrine of laches.

AFFIRMED.

COLLINS, Circuit Judge, dissenting:

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In my view, the district court erred in granting summary judgment to Defendant-Appellee Wells Fargo Bank, N.A. (“Wells Fargo”) in this quiet title action brought by SFR Investments Pool 1, LLC (“SFR”). Because the majority concludes otherwise, I respectfully dissent.

SFR purchased the property in question at a foreclosure auction conducted by the Homeowners’ Association (“HOA”) for the community in which the subject property was located. The central issue in this case is whether the lien that was the subject of that foreclosure contained a so-called “superpriority” component, such that the first trust deed of Wells Fargo would have been extinguished by the foreclosure. Under Nevada Revised Statutes § 116.3116(2),¹ an HOA’s lien acquires superpriority status to the extent that the lien is for assessments imposed by the HOA “which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien.” NEV. REV. STAT. § 116.3116(2). The key questions, then, are (1) what was the date on which the HOA “institut[ed] . . . an action to enforce the lien”; (2) whether there were pending unpaid HOA assessments that had become due in the nine months

¹ All citations are to the version of the relevant statutes that were in effect at the time of the HOA’s foreclosure sale in January 2013.

“preceding” that date; and (3) whether the lien covered those unpaid assessments.

Taking the second question first, I agree with the majority’s conclusion that, *if* the June 20, 2007 filing of a “Notice of Lien” by the HOA in this case counts as the “institution of an action to enforce the lien” within the meaning of § 116.3116(2), then the HOA lien at issue in this case had no superpriority component, and Wells Fargo’s deed of trust survived the HOA’s foreclosure. But my reasoning for reaching that conclusion differs from the majority’s.

The majority relies on the premise that SFR failed to present sufficient evidence to support its claim that the June 1, 2007 monthly HOA assessment (for \$132) “was in arrears” when the Notice of Lien was filed on June 20, 2007. *See* Memo. Dispo. at 4. That is wrong. Although the summary judgment record in this case is somewhat confusing and conflicting, I think that there is enough evidence for a reasonable trier of fact to conclude that this June assessment was delinquent as of June 20, 2007. A ledger in the record shows that a late fee for the June 1 assessment was imposed on June 21, thereby supporting an inference that the assessment remained unpaid as of that date. Moreover, another ledger in the record (covering July 2007 through December 2008) shows late fees being imposed for late assessment payments as early as the 15th of the month, which would support a reasonable inference that the monthly payments were due *before* the 20th of each month. From this evidence, a reasonable jury could find that the

June 2007 assessment was unpaid and delinquent as of June 20, 2007.

In arguing for a contrary conclusion, Wells Fargo points to a printout listing “VIOLATIONS ONLY” for the relevant HOA account, which contains zeros for all entries relating to monthly assessments. But a reasonable trier could find that the zeroes are a function of the search criteria used to generate the printout, which in this example was apparently limited to “violations only.” The record contains another such printout—which does not contain the notation “violations only”—for the timeframe of “04/06–1/09,” and that printout shows 25 months of delinquent assessments totaling \$3,300. Indeed, because January 2009 is 19 months after June 2007, this document supports an inference that there were *multiple* delinquent assessments as of June 2007.

Nonetheless, I ultimately agree that, *if* the June 2007 Notice of Lien counts as the “institution of an action to enforce the lien,” the lien still did not contain a superpriority component. As the district court correctly noted, any then-delinquent HOA assessments were not “part of the notice of lien.” The statute requires that the notice that initiates the foreclosure process must “state[] the amount of the assessments and other sums which are due” and which the lien enforces. NEV. REV. STAT. § 116.31162(1)(a). But here the Notice of Lien states that the “total amount due as of today’s date is \$1,920.00,” which all parties agree reflects only the amount of unpaid HOA *fin*es (and associated collection costs for those fines)

that had accrued. Although the Notice of Lien, by its terms, also covers additional amounts that “will accrue” for “regular monthly and/or special assessments,” those are covered only to the extent that they are “accruing *after* the date of the notice” (emphasis added). By its terms, the Notice of Lien thus simply did not cover the assessments that were delinquent as of June 20, 2007. I agree with the district court that, on that basis, the June 2007 Notice of Lien did not cover any delinquent assessments and that, if that Notice counted as the “institution of an action to enforce the lien,” then the lien did not include a superpriority component.

However, I disagree with the majority’s and the district court’s underlying premise that the June 2007 Notice of Lien can serve as the “institution of an action to enforce the lien” within the meaning of § 116.3116(2), as that provision has been construed by the Nevada Supreme Court.

In *Saticoy Bay LLC Series 2021 Gray Eagle Way v. JPMorgan Chase Bank, N.A.*, 388 P.3d 226 (Nev. 2017), the Nevada Supreme Court addressed the related question of what date counts as the commencement of “proceedings to enforce the lien” for purposes of the statute of limitations in Nevada Revised Statutes § 116.3116(6). Analogizing to § 116.3116(2)’s reference to the “institution of an action to enforce a lien,” the court held that the commencement of such proceedings, and the institution of such an action, occurs when the referenced procedure—namely, the statutory “procedure for foreclosure of liens . . . provided

in [Nevada Revised Statutes §§] 116.31162–.31164”—has been invoked. *Saticoy Bay*, 388 P.3d at 231. As the court explained, the foreclosure procedure set forth in those provisions comprises a three-step process, and the first step in that process is the lien holder’s service of a “notice of delinquent assessment[] pursuant to [Nevada Revised Statutes §] 116.31162(1)(a).” *Id.* The “institution of an action to enforce a lien” thus occurs when the lien holder first serves a “notice of delinquent assessment” in accordance with § 116.31162(1)(a). For reasons that I shall explain, I do not think that the June 20, 2007 Notice of Lien, or the correspondence that preceded it, can count as the referenced notice of delinquent assessment under § 116.31162(1)(a).

As SFR points out, the statute expressly prohibits HOAs from “foreclos[ing] a lien by sale based on a fine or penalty for a violation of the [HOA’s] governing documents.” NEV. REV. STAT. § 116.31162(4). Because, as I have explained, the June 20, 2007 Notice of Lien, at the time it was filed, was indisputably only for *fines* and fine-related costs, § 116.31162(4) squarely prohibited invoking the foreclosure procedures described in *Saticoy Bay*. Because the three-step “procedure for foreclosure of liens . . . provided in [Nevada Revised Statutes §§] 116.31162–.31164” was thus not legally available to enforce the Notice of Lien, there is no sense in which that document can be said to qualify as the first step in *that* process. Because *Saticoy Bay* says that the “institution of an action to

enforce a lien” for purposes of § 116.3116(2) occurs when that first step is invoked—and the Notice of Lien cannot count as that first step—the district court erred in holding that that Notice was the document that “institut[ed] an action to enforce a lien” within the meaning of the statute.

Instead, the first document that *does* qualify as a valid “notice of delinquent assessment” under § 116.31162(1)(a) is the HOA’s January 5, 2009 letter informing the owners of the amount then due—\$6,188—which amount indisputably included delinquent assessments that had accrued within the nine months preceding that letter and that (because they accrued after June 2007) were also covered by the plain terms of that existing lien. That letter meets all the criteria required for a “notice of delinquent assessment” under § 116.31162(1)(a) to constitute the first step of the three-step process *Saticoy Bay* describes, and because the amount described in that letter was not for fines only, the prohibition in § 116.31162(4) did not apply. The letter was also followed by the HOA’s timely compliance with steps two and three as well—namely, recording of “a notice of default and election to sell the unit to satisfy the lien” and a 90-day grace period before continuing with a foreclosure sale. NEV. REV. STAT.

§ 116.31162(1)(a)–(c). Because the January 2009 letter is what counts as the “institution of an action to enforce [the] lien” within the meaning of § 116.3116(2), and because the lien then included delinquent assessments from the prior nine

months, the lien contained a superpriority component. Wells Fargo's first deed of trust was therefore extinguished by the HOA foreclosure, and SFR's cross-motion for summary judgment should have been granted.

Wells Fargo argues, and the majority agrees, that a contrary conclusion is compelled by the Nevada Supreme Court's unpublished decision in *Silver State Schools Credit Union v. Oella Ridge Trust*, 2019 WL 3061742 (Nev. 2019). *See* Memo. Dispo. at 4. That is incorrect. Unlike in this case, the amount then due that was specified in the notice of lien in *Silver State* did *not* cover *only* fines and fine-related costs. Although that amount did not include any superpriority unpaid HOA assessments, it *did* include "interest, late and collection fees, and CC&R fines." *Id.* at *1. The merits briefing in *Silver State* expressly confirms what the opinion implies, which is that the late fees were imposed for untimely payment of *HOA assessments*. *See* Appellant's Reply Brief in *Silver State*, 2019 WL 1441137, at *4 & n.4. Because *Silver State* did not involve a lien for fines and fine-related costs only, the statutory prohibition on invoking the foreclosure procedure did not apply in that case, and the notice of lien in that case could and did validly suffice as the first step in *Saticoy Bay*'s three-step process, as *Silver State* held. But *Silver State* had no occasion to address, and therefore did not address, whether a fines-only notice of lien could count as the first-step of a process that was legally unavailable. It is therefore inapposite. And for the reasons that I have explained, a fines-only

notice of lien cannot count as that first step.

For the foregoing reasons, I would reverse the district court's grant of summary judgment for Wells Fargo and would remand with instructions to enter judgment for SFR.² I therefore respectfully dissent.

² I therefore have no occasion to address SFR's alternative argument based on the doctrine of laches.