

1 Plaintiffs make the following argument in response to the summary judgment
2 motions:

3 Defendants' attempt to characterize Plaintiff's criticism of the
4 assignment as a claim that MERS has no interest in the note is misplaced.
5 The false statement is related to the transfer of the note itself together with
6 an interest in all monies to become due under the note. This is not the same
7 as saying that MERS was transferring an interest in the note itself.

8 Doc. 2011 at 6.

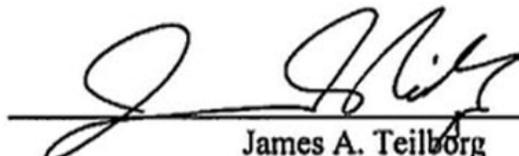
9 The Court has tried to decipher what Plaintiffs are arguing by this sentence and
10 how this relates to any allegation of forgery,¹ but the Court has been unsuccessful.

11 Accordingly,

12 **IT IS ORDERED** that the Robinson and Silvas Plaintiffs shall file a supplemental
13 brief on the issues discussed above not to exceed five pages by April 25, 2016. Any
14 Defendant may each respond, in a brief not to exceed five pages, by April 29, 2016.

15 **IT IS FURTHER ORDERED** that the Clerk of the Court must file a copy of this
16 Order in both the MDL case number and the one member case listed above.

17 Dated this 20th day of April, 2016.

18 
19 _____
20 James A. Teilborg
21 Senior United States District Judge

22 ¹ To the extent by "false statement", which is not listed as a way to violate A.R.S. § 33-
23 420, Plaintiffs are arguing a theory other than "forgery" and assuming (for purposes of
24 this Order only) that such an argument would not be beyond the scope of the mandate,
25 Plaintiffs must prove materiality. Specifically, Plaintiffs mischaracterize this Court's
prior order by stating that the Court held that Plaintiffs "do not need to prove materiality
related to the documents." (Doc. 2011 at 9). This Court did not hold this, and indeed
could not, as the statute itself expressly requires that if the theory under which a plaintiff
is proceeding is a "misstatement" such misstatement must be "material". A.R.S. § 33-
420. In other words, all this Court held was that if a plaintiff is proceeding on a theory
that a document is "forged", the plaintiff does not have to prove materiality. (See Doc.
1912 at 4).