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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Fausto U. Cettolin, Jr.; Donna L. Cettolin,)

No. CV 10-8036-PCT-JAT

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Plaintiffs,

ORDER

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vs.

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GMAC; Mortgage Electronic Registration)
Systems, Inc.; Executive Trustee Services,
LLC; et. al.,

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Defendants.

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Plaintiffs filed a New Rule 60 Motion for Relief (Doc. 45) on May 20, 2011, which the Court denied on May 24, 2011 for lack of jurisdiction (Doc. 47). The Court denied the Motion because Plaintiffs filed a Notice of Appeal before filing the New Rule 60 Motion, which divested this Court of jurisdiction to decide the Motion.

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Plaintiffs now have filed a Motion to Entertain Motion for Relief (Doc. 48). Plaintiffs claim that this Court can decide a Rule 60(b) motion after a notice of appeal is filed if a party follows the procedure outlined in *Davis v. Yageo*, 481 F.3d 661, 685 (9th Cir. 2007). That procedure is to “ask the district court whether it wishes to entertain the motion, or to grant it, and then move [the Ninth Circuit Court of Appeals], if appropriate, for remand of the case.” *Id.* (citing *Gould v. Mut. Life Ins. Co. of N.Y.*, 790 F.2d 769, 772 (9th Cir. 1986)). The Court does not wish to either entertain or grant the New Motion for Relief (Doc. 45).

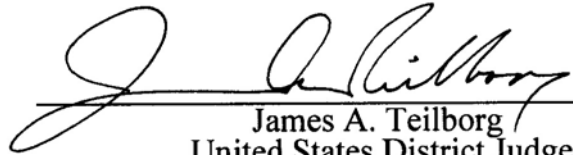
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Accordingly,

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IT IS ORDERED DENYING Plaintiffs' Motion to Entertain Motion for Relief on
Consent Orders – FRCP 60 (Doc. 48).

DATED this 14th day of June, 2011.



James A. Teilborg
United States District Judge