

1 Miller, 397 F.3d 726, 729 (9th Cir. 2005); Martin-Trigona v. Champion Fed. Sav. & Loan Ass'n,
2 892 F.2d 575, 577 (7th Cir. 1989); Cobb v. Aurora Loan Servs., 408 B.R. 351, 355 (E.D. Cal.
3 2009). Since Plaintiff initiated this lawsuit prior to filing bankruptcy, this case is not subject to
4 the automatic stay. See id.

5 However, once a person files for bankruptcy, a bankruptcy estate is created and that estate
6 includes causes of action that accrued prior to the filing of bankruptcy. See De Pomar v.
7 Equifirst Corp., 2010 U.S. Dist. LEXIS 143216 (C.D. Cal. Feb. 2, 2010); Basilio v. TDR
8 Servicing, 2009 U.S. Dist. LEXIS 120583 (E.D. Cal. Dec. 29, 2009); Cobb, 408 B.R. at 354;
9 Hernandez v. Downey Sav. & Loan Ass'n, 2009 U.S. Dist. LEXIS 21495 (S.D. Cal. Mar. 17,
10 2009). The bankruptcy trustee becomes the real party in interest with respect to the bankruptcy
11 estate assets. See id. Since the claims in this case accrued prior to Plaintiff filing for bankruptcy,
12 it appears that she is no longer the real party in interest and lacks standing to pursue this lawsuit.
13 See id. In light of Plaintiff's filing bankruptcy, the parties will be directed to file briefing
14 regarding Plaintiff's standing to pursue this lawsuit, including the preliminary injunction.

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16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. On or by October 17, 2011, as part of her reply memoranda, Plaintiff shall address her
18 standing to pursue this lawsuit (including the preliminary injunction) in light of her filing
19 of bankruptcy;
- 20 2. On or by October 19, 2011, Defendants shall file a sur-reply that addresses the issue of
21 standing and responds to any arguments that Plaintiff makes regarding her standing in
22 light of the filing of bankruptcy; and
- 23 3. The October 24, 2011, hearing at this point shall remain on calendar.

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25 IT IS SO ORDERED.

26 Dated: October 12, 2011

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28 CHIEF UNITED STATES DISTRICT JUDGE