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Pro Se

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN V. SILVA JR. and JUDITH A. SILVA,

Plaintiffs,

No. C 09-03526 JSW

v.

EMC MORTGAGE COMPANY, et al.,

**ORDER OF REFERRAL TO  
BANKRUPTCY COURT**

Defendants.

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Plaintiffs John V. Silva and Judith A. Silva (“Plaintiffs”) bring in their complaint, *inter alia*, a claim for violation of the automatic stay under 11 U.S.C. § 362. Plaintiffs allege that Defendants unlawfully attempted to foreclose on their property and to collect a debt after John V. Silva (“Mr. Silva”) filed a petition in bankruptcy court. In their motion to dismiss, Defendants argue that this claim should be referred to the bankruptcy court. The Court agrees.

District courts have “original but not exclusive jurisdiction over all civil proceedings arising under title 11, or arising in or related to title 11.” *See* 28 U.S.C. § 1334(b). However, district courts may refer such cases to bankruptcy court. *See* 28 U.S.C. § 157(a). Although Mr. Silva’s case in bankruptcy court is currently closed, the bankruptcy court has the authority to reopen it. *See* 11 U.S.C. § 350(b) (authorizing the bankruptcy court to reopen a case “to accord relief to the debtor, or for other cause.”).

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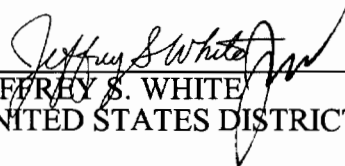
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Accordingly, the Court HEREBY ORDERS that this case is REFERRED to bankruptcy court for consideration and is closed for statistical purposes until further order from this Court.

**IT IS SO ORDERED.**

Dated: DEC 08 2009

  
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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

JOHN et al,

Plaintiff,

v.

SILVA JR.-V-EMC MORTGAGE  
COMPANY et al,

Defendant.

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Case Number: CV09-03526 JSW

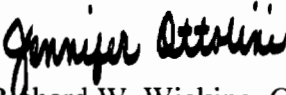
**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 8, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

John V. Silva  
Judith A. Silva  
32258 Devonshire Street  
Union City, CA 94587

Dated: December 8, 2009

  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk