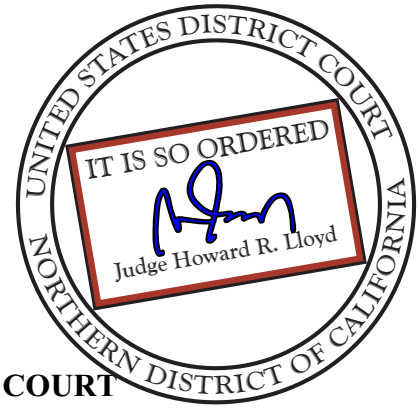
Braulio Rodriquez et al v. Summit Mortgage Realty , Inc. et al Doc. 105

Nancy M. Battel, State Bar No. 126548
LAW OFFICES OF NANCY M. BATTEL, JD MBA
99 Almaden Blvd., Suite 925
San Jose, CA 95113
Phone: (408) 297-5400
Fax: (408) 297-5407

Attorney for Plaintiffs
Braulio Rodriguez, Silvia Rodriguez



UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

BRAULIO RODRIGUEZ, SILVIA RODRIGUEZ, individually and on behalf of the general public, Plaintiffs v. SUMMIT MORTGAGE REALTY, INC,. ESPERANZA VALVERDE, HERMAN COVARRUBIAS, CESAR PUENTE, CEASER VALVERDE, WMC MORTGAGE CORP., ALLIANCE TITLE COMPANY, FEREIDOON KHATAMI, Defendants	Case No. C 05-02904 HRL CASE MANAGEMENT STATEMENT AND REQUEST FOR DISMISSAL CMC Date: March 17, 2009 CMC Time: 1:30pm

Ever since March 21, 2007, this case has been stayed due to a related criminal action against Defendants Summit Mortgage Realty, Inc., Esperanza Valverde, Herman Covarrubias, Cesar Puente, and Ceaser Valverde. All the parties in this action have agreed that the stay would remain in effect until the conclusion of the related criminal matter.

On or about October 2008, Defendants Esperanza Valverde and Herman Covarrubias were found guilty of violating Penal Code 484-487(a) with respect to their transactions with Plaintiffs. A sentencing hearing was held on December 4, 2008, however, the criminal court continued the sentencing hearing until some time in January 2009. Plaintiffs requested that the court extend the stay and continue the case management conference until it was determined if there would be criminal restitution to address Plaintiffs' civil claims.

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Plaintiffs' counsel is now informed by Plaintiffs that the criminal court has ordered that restitution be paid to Plaintiffs.

Therefore, as some or all Defendants have been convicted of wrongdoing in criminal court, and as restitution has been ordered, and as some or all Defendants have filed for bankruptcy, and as Plaintiffs are informed and believe that Defendant Summit Mortgage Realty, Inc., who is without counsel in this action, is either in the process of dissolving or has completed the process, and as Plaintiffs have settled with Defendant FEREIDOON KHATAMI; and as Counter-Claimant WMC MORTGAGE CORP has stipulated to dismiss all counter-claims, Plaintiffs hereby request that this action be dismissed without prejudice, all parties to bear their own attorney's fees and litigation costs.

DATED: May 18, 2009 LAW OFFICES OF NANCY M. BATTEL, JD MBA

By: /s/ Nancy M. Battel
Nancy M. Battel, Counsel for Plaintiffs
Braulio Rodriguez and Silvia Rodriguez