

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MADHVAMUNI K DAS, et al.,  
Plaintiffs,  
v.  
WMC MORTGAGE CORP., et al.,  
Defendants.

---

Case No.: C 10-0650 PVT  
**ORDER SOLICITING  
SUPPLEMENTAL BRIEFING  
AND CONTINUING HEARING**

Currently scheduled for hearing on June 29, 2010, are motions to dismiss filed by various Defendants. However, it has come to the court’s attention that the Plaintiffs allege in their complaint that they filed bankruptcy proceedings shortly before filing this action. Thus, before holding a hearing on the pending motions to dismiss, the court needs to ascertain whether a trustee has been appointed, and if so whether Plaintiffs have standing to bring this action. See 8A C.J.S. Bankruptcy § 105 (“Where at the time suit is brought, legal capacity to sue belongs to the trustee in bankruptcy, a debtor in bankruptcy generally lacks standing to bring suit”). Therefore,

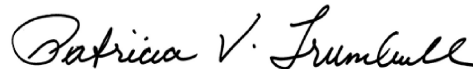
IT IS HEREBY ORDERED that, no later than July 6, 2010, Plaintiffs shall file a supplemental brief informing the court of the status of their bankruptcy proceedings, whether a trustee has been appointed, and if a trustee has been appointed, addressing the issue of whether they have standing to bring this action.

1 IT IS FURTHER ORDERED that if a trustee has been appointed, Plaintiffs shall promptly  
2 serve a copy of this order on the trustee and shall file a proof of such service no later than June 28,  
3 2010.

4 IT IS FURTHER ORDERED that any Defendant that so chooses may file a response to  
5 Plaintiffs' supplemental brief no later than July 13, 2010.

6 IT IS FURTHER ORDERED that the hearings on the pending motions to dismiss are  
7 continued to July 27, 2010.

8 Dated: 6/22/10

  
9 PATRICIA V. TRUMBULL  
10 United States Magistrate Judge  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28