

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00670-REB-MEH

MARK BURRIS, and
LORI BURRIS,

Plaintiffs,

v.

US BANK NATIONAL ASSOCIATION [sic], as trustee for the BS Alta 2006-3,
GMAC BANK, and
JOHN AND JANE DOES, unknown owners of securitized note,

Defendants.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on June 15, 2010.

Pending before the Court is a Motion to Remand of US Bank National Association as Trustee for BS ALTA 2006-3 (“US Bank”) [filed June 11, 2010; docket #18]. US Bank argues that a Colo. R. Civ. P. 120 proceeding involving the Plaintiffs has been removed and consolidated with this action and, thus, US Bank seeks remand of the Rule 120 proceeding. However, upon review of the record in this case, no state court proceeding has been removed and/or consolidated with this action. Although the Plaintiffs filed in this case a *copy* of a “Notice of Removal” containing a state court caption and a file stamp by the Park County District Court (*see* docket #5), any attempt at removal by this filing would be in contravention of the required procedure set forth in 28 U.S.C. § 1446. Thus, no removal has taken place here.¹ Rather, in this action, the Plaintiffs filed a Complaint and the requisite filing fee to initiate the lawsuit. Docket #1. Thus, US Bank’s motion is **denied**.

¹In fact, there is no indication on the docket sheet for the Rule 120 proceeding (provided by US Bank) that the state court proceeding has been “removed” or terminated.