

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

<p>DWAYNE RANSOM DAVIS and MELISA DAVIS, on behalf of themselves and all others similarly-situated,</p> <p style="text-align:center">Plaintiffs,</p> <p style="text-align:center">vs.</p> <p>COUNTRYWIDE HOME LOANS, INC.; BANK OF AMERICA, N.A.; BAC GP, LLC; and BAC HOME LOANS SERVICING, LP,</p> <p style="text-align:center">Defendants.</p>	<p>Case No: 1:10-cv-01303-JMS-DML</p>
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DEFENDANTS' MOTION TO DISMISS

Defendants Countrywide Home Loans, Inc., Bank of America, N.A., BAC GP, LLC, and BAC Home Loans Servicing, LP (collectively, "Defendants"), by counsel, move this Court to dismiss Plaintiffs' Complaint with prejudice pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). In support of Defendants' Motion, and as set forth in more detail in the accompanying memorandum, Defendants state as follows:

1. Plaintiffs' claims are barred by the *Rooker-Feldman* doctrine, *res judicata*, and collateral estoppel.
2. Plaintiffs lack standing to assert a RICO claim because they have failed to plead injury "by reason of" the alleged racketeering activity, and have failed to plead any of the underlying RICO sections on which they rely.

3. Defendants are not a “debt collector” under the Fair Debt Collection Practices Act, and the underlying foreclosure proceeding was an action to enforce a security interest, not an attempt to collect a debt.

WHEREFORE, Defendants request that this Court dismiss Plaintiffs’ Complaint with prejudice and grant any other relief that the Court deems proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Corporate Disclosure Statement was filed electronically on this 10th day of November, 2010. Notice of this filing will be sent to the parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. For those parties which are not registered with the Court's electronic filing system, I certify that a copy of this Corporate Disclosure Statement has been served by depositing a copy of it in the United States mail, first class postage prepaid.

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/s/ Matthew R. Strzynski

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