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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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JASON J. WARNER AND RACHEL A. WARNER,

Plaintiffs,

v.

J.P. MORGAN CHASE BANK, et al.,

Defendants.

**MEMORANDUM DECISION AND ORDER**

Case No. 2:09-CV-01049-CW

Judge Clark Waddoups

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**I. THE FIRST AND FOURTH CAUSES OF ACTION**

Defendants move to dismiss Plaintiffs’ first and fourth causes of action challenging foreclosure of the subject property. The court notes that it has recently ruled on similar issues in *Marty v. Mortgage Electronic Registration Sys.*, No. 1:10-CV-033, 2010 U.S. LEXIS 111209 (D. Utah Oct. 19, 2010) and *Commonwealth Property Advocates v. Citimortgage, Inc.*, No. 2:10-CV-00885-CW (D. Utah, Jan. 12, 2011). In light of these rulings, the court orders Plaintiffs to show cause why these causes of action should not be dismissed. In the alternative, Plaintiffs may voluntarily dismiss any of the causes of action. The court notes that it will consider colorable claims, but admonishes counsel to be aware that frivolous actions will not be permitted in this court. In any event, Plaintiffs are to respond no later than March 17, 2011.

**II. THE SECOND, THIRD, FIFTH, SIXTH, AND SEVENTH CAUSES OF ACTION**

Defendants move to dismiss the second, third, fifth, sixth, and seventh causes of action for failure to state a claim. In response to Defendants' motion, Plaintiffs fail to offer any defense. The opposition to these causes of action is therefore deemed conceded and dismissed with prejudice, except for the seventh cause of action which is dismissed without prejudice as it relates to fees and costs pending the adjudication of the first and fourth causes of action.

DATED this 7th day of March, 2011.

BY THE COURT:



Clark Waddoups

United States District Judge