ask the Court to sanction Defendants under Fed. R. Civ. P. 11.[2] Plaintiffs claim that "since 2008 Defendants have admitted by their evidence Defendants knew they could not establish themselves as the holder entitled to enforce." Defendants respond that Plaintiffs failed to follow proper procedures in bringing this request.

Any request for sanctions should be by separate motion -- not raised in an opposition to a cross-motion. In addition, Plaintiffs failed to follow the correct procedure for bringing a motion under Fed. R. Bankr. P. 9011. Under Rule 9011(c)(2), Plaintiffs were required to first serve a separate Rule 9011 motion and give Defendants 21 days to either withdraw or correct the paper that is the subject of the motion. Compare Radcliffe v. Rainbow Constr. Co., 254 F.3d 772, 789 (9th Cir. 2001). ("Failure to follow the procedure set forth in Rule 11(c)(2) precludes the moving party from obtaining an award of sanctions.") In any event, because there is some evidence that Deutsche Bank might be the holder of the note, sanctions are not appropriate. Therefore, the Court will not impose sanctions at this juncture.

**Conclusion**

For the reasons stated above, both cross-motions for summary judgment are denied. Plaintiffs' request for Rule 11 sanctions is also denied.

Dated: 3/18/13

ARTHUR S. WEISSBRODT
UNITED STATES BANKRUPTCY JUDGE

[2] It is Fed. R. Bankr. P. 9011 which applies to this adversary proceeding, not Fed. R. Civ. P. 11. However, the two rules are similar in many respects.

Court Service List

Micheal Scott Grey
Susan Patricia Grey
2072 Folle Blanche
San Jose, CA 95135

Eric D. Houser
Law Offices of Houser and Allison
9970 Research Dr.
Irvine, CA 92618

Robert W. Norman, Jr.
Houser and Allison
3780 Kilroy Airport Way #130
Long Beach, CA 90806

William G. Malcolm
Law Offices of Malcolm and Cisneros
2112 Business Center Dr. 2nd Fl.
Irvine, CA 92612

Devin Derham-Burk
P.O. Box 50013
San Jose, CA 95150-0013

# Notice Recipients

| | | |
|---|---|---|
| District/Off: 0971−5 | User: krose | Date Created: 3/18/2013 |
| Case: 10−05288 | Form ID: pdfeoapc | Total: 6 |

**Recipients submitted to the BNC (Bankruptcy Noticing Center):**

| | | | | |
|---|---|---|---|---|
| pla | Micheal S. Grey | 2072 Folle Blanche | San Jose, CA 95135 | |
| | Susan Patricia Grey | 2072 Folle Blanche | San Jose, CA 95135 | |
| | Eric D. Houser | Law Offices of Houser and Allison | 9970 Research Dr. | Irvine, CA 92618 |
| | Robert W. Norman, Jr. | Houser and Allison | 3780 Kilroy Airport Way #130 | Long Beach, CA 90806 |
| | William G. Malcolm | Law Offices of Malcolm and Cisneros | 2112 Business Center Dr. 2nd Fl. | Irvine, CA 92612 |
| | Devin Derham−Burk | P.O. Box 50013 | San Jose, CA 95150−0013 | |

TOTAL: 6