

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

IN THE MATTER OF:

RICHARD P. LOTFY
SHARI D. LOTFY,
Debtors

CHAPTER 13
CASE NO. 08-40106

RICHARD P. LOTFY
SHARI D. LOTFY,
Plaintiffs

v.

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.

and

INDYMAC BANK, FSB
Defendant

ADVERSARY PROCEEDING
CASE NO. 08-04071

MOTION FOR LEAVE TO FILE LATE OPPOSITION

NOW COME Richard P. Lotfy and Shari D. Lotfy, Plaintiffs in the above captioned matter, and move this Honorable Court for leave to file a late opposition to Defendant's Motion to Dismiss pursuant to Fed. R. Civ. P 12(b)(7). Said Motion to Dismiss was filed on March 4, 2009.

In support thereof, Plaintiff's counsel states that due to an attempted systems upgrade in her office which consisted of ECF filings going into computer folders as opposed to email, Counsel did not see the Motion to Dismiss when filed. The Motion to Dismiss was not viewed by Counsel until yesterday, April 6, 2009.

As a result of Counsel's error, a timely Opposition to the Motion to Dismiss was not filed. However, said Opposition will be filed subsequent to this Motion for Leave.

Counsel did communicate with Defendant's Counsel and was informed that this Motion for Leave would be opposed.

WHEREFORE, Plaintiffs, through Counsel, request that leave be granted to file an opposition to Defendant's Motion to Dismiss pursuant to Fed.R.Civ.P. 12(b)(7).

Respectfully submitted,
The Debtors,
By their Attorney
Rosaleen J. Clayton

/s/ Rosaleen J. Clayton
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