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UNITED STATES DISTRICT COURT

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FOR THE CENTRAL DISTRICT OF CALIFORNIA

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WESTERN DIVISION

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14 WAYMAN TRIPP and SVEN
 15 MOSSBERG, Individually and On
 Behalf of All Others Similarly
 16 Situated,

Plaintiffs,

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v.

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19 INDYMAC BANCORP, INC., and
 MICHAEL W. PERRY,

Defendants.

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Case No.: 2:07-cv-1635-GW (VBK)

**ORDER DENYING MOTION TO
 DISMISS SIXTH AMENDED
 CLASS ACTION COMPLAINT,
 INCORPORATING LOSS
 CAUSATION ANALYSIS FROM
 RULING ON ORDER DENYING
 MOTION TO DISMISS FIFTH
 AMENDED CLASS ACTION
 COMPLAINT, AND CERTIFYING
 ORDER FOR INTERLOCUTORY
 APPEAL**

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ORDER DENYING MOTION TO DISMISS SIXTH
 AMENDED CLASS ACTION COMPLAINT,
 INCORPORATING LOSS CAUSATION ANALYSIS FROM
 RULING ON ORDER DENYING MOTION TO DISMISS
 FIFTH AMENDED CLASS ACTION COMPLAINT, AND
 CERTIFYING ORDER FOR INTERLOCUTORY APPEAL;
 Case No.: 2:07-cv-1635-GW (VBK)

1 On December 11, 2009, the Court adopted as its final ruling (Docket No.
2 207) a tentative ruling that it had issued on December 10, 2009 (Docket No. 208),
3 in connection with defendant Michael W. Perry's motion to dismiss Plaintiffs'
4 Fifth Amended Class Action Complaint. Perry subsequently moved to certify that
5 order for interlocutory appeal. As the result of proceedings held in connection
6 with that certification motion, the Court ordered Plaintiffs to file a Sixth Amended
7 Class Action Complaint to cure perceived deficiencies only with respect to the
8 materiality element.

9 Because the materiality element would be seemingly easily pled, the Court
10 indicated to Perry that he could proffer, in a relatively informal form, any
11 arguments he would make in seeking to dismiss the Sixth Amended Class Action
12 Complaint based only on the sufficiency of the materiality allegations. The Court
13 was then to determine whether it would allow Perry to actually file a motion to
14 dismiss the Sixth Amended Class Action Complaint for failure to plead
15 materiality. On March 4, 2010, the Court indicated that it had reviewed both the
16 Sixth Amended Class Action Complaint and Perry's proffer as to materiality and
17 indicated that there would be no need for a motion to dismiss – effectively, a
18 denial.

19 The Court now converts Perry's motion to dismiss the Fifth Amended Class
20 Action Complaint into a motion to dismiss the Sixth Amended Class Action
21 Complaint, formally denies the motion to dismiss the Sixth Amended Class Action
22 Complaint, and simultaneously incorporates into this ruling the first two
23 paragraphs from the tentative ruling issued December 10, 2009, and made final
24 December 11, 2009, which addressed the prior iteration of Plaintiffs' complaint.

25 Finally, for the reasons addressed in the tentative ruling issued February 1,
26 2010 (Docket No. 224) and adopted as this Court's final ruling on March 22, 2010
27 (Docket No. 242), this ruling on the motion to dismiss the Sixth Amended Class

1 Action Complaint is now certified for interlocutory appeal pursuant to 28 U.S.C. §
2 1292(b). The Court finds that the loss causation portion of this Order denying the
3 motion to dismiss the Sixth Amended Class Action Complaint involves
4 controlling questions of law as to which there are substantial grounds for
5 differences of opinion and that an immediate appeal from this Order may
6 materially affect the ultimate termination of the litigation.

7 The Court further orders the Court Clerk promptly to serve this order on all
8 parties who have appeared in this action.

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10 IT IS SO ORDERED.

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12 DATED: March 29, 2010



HON. GEORGE H. WU
UNITED STATES DISTRICT JUDGE