

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK (MANHATTAN)

In Re: ) Case No.: 12-12032  
)  
) ADVERSARY PROCEEDING  
GMAC MORTGAGE, LLC (SUCCESSOR BY MERGER TO )  
)  
GMAC MORTGAGE CORPORATION) AS SERVICER FOR ) ADV. NO: \_\_\_\_\_  
THE BANK OF NEW YORK MELLON TRUST COMPANY, )  
NATIONAL ASSOCIATION FKA THE BANK OF NEW )  
YORK TRUST COMPANY, N.A. AS SUCCESSOR TO )  
JP MORGAN CHASE BANK NA, AS TRUSTEE FOR )  
RAMP 2003-RS11, )  
----- )

TODD A. WILLIAMS,  
2563 ALEXANDER FARMS DRIVE  
MARIETTA, GA 30064

Plaintiff,

-against-

GMAC MORTGAGE, LLC (SUCCESSOR BY MERGER TO )  
GMAC MORTGAGE CORPORATION) AS SERVICER FOR )  
THE BANK OF NEW YORK MELLON TRUST COMPANY, )  
NATIONAL ASSOCIATION FKA THE BANK OF NEW )  
YORK TRUST COMPANY, N.A. AS SUCCESSOR TO )  
JP MORGAN CHASE BANK NA, AS TRUSTEE FOR )  
RAMP 2003-RS11, )  
AND )  
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS )  
"MERS" )  
AND )

**COMPLAINT TO DETERMINE THE  
NATURE, EXTENT AND VALIDITY OF  
LIEN AND DISALLOW SECURED  
CLAIM, TILA VIOLATION, FRAUD,  
LIBEL, QUIET TITLE, TRO,  
PRELIMINARY AND PERMANENT  
INJUNCTIONS FOR VIOLATION OF  
THE FAIR DEBT COLLECTION  
PRACTICES ACT**

**JURY TRIAL DEMANDED**



COMPLAINT TO DETERMINE THE NATURE, EXTENT AND VALIDITY OF LIEN AND DISALLOW SECURED  
CLAIM, THILA VIOLATION, FRAUD, LIBEL, QUIET TITLE, TRO, PRELIMINARY AND PERMANENT  
INJUNCTIONS FOR VIOLATION OF THE FAIR DEBT COLLE



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1 HOMECOMINGS FINANCIAL, LLC AS SERVICING )  
2 AGENT FOR JP MORGAN CHASE BANK, NA )  
3 1270 NORTHLAND DRIVE, SUITE 200 )  
4 MENDOTA HEIGHTS, MN 55120 )  
5 Defendant )  
6 )  
7 )

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8 Pursuant to 28 U.S.C. 1452(A) AND 1334(B), Rule 9027 of the Federal Rule of  
9 Bankruptcy Procedure, Rule 101(e) of the Local Civil Rules of the U.S. District Court  
10 for the Southern District of New York (the "District Court"), and Local Bankruptcy  
11 Rule 9027-1 of the U.S. Bankruptcy Court for the U.S. District of New York (the  
12 "Bankruptcy Court"), and without waiving any and all applicable defenses at law and in  
13 equity to the claim asserted in the United State Bankruptcy Court Atlanta Georgia  
14 Federal Action (as defined below), Plaintiff Todd Williams, hereby gives notice that  
15 he has joined the United States Bankruptcy for the Southern District of New York  
16 Court Action. In support thereof, Defendant states as follows:

17  
18 The complaint of Todd Williams, Creditor, respectfully alleges:

- 19 1. Plaintiff is the duly qualified and acting debtor/Creditor in this case.
- 20 2. The Debtor/Creditor filed a Petition for Chapter 13 Bankruptcy on 09/04/12.
- 21 3. Plaintiff files this action to determine the nature, extent and priority of  
22 The Defendants' lien, if any, **fraudulent Assignment's** on the property of the  
23 Debtor/Creditor, pursuant to Bankruptcy Rule 7001(2) and 11 U.S.C. §506.
- 24 4. The Debtor/Creditor have an interest in the real estate pursuant to 11  
25 U.S.C. §544 which is superior to that of any that may be held by Defendants.
- 26 5. Jurisdiction is predicated upon 28 U.S.C. §1334 and §157. This action is

27  
28 COMPLAINT TO DETERMINE THE NATURE, EXTENT AND VALIDITY OF LIEN AND DISALLOW SECURED  
CLAIM, THILA VIOLATION, FRAUD, LIBEL, QUIET TITLE, TRO, PRELIMINARY AND PERMANENT

1 a core proceeding under the provisions of 28 U.S.C. §157(b)(2)(k), 28 U.S.C.  
2 §157(b)(2)(O), and 28 U.S.C. §157(b)(2)(E). Venue lies in this District  
3 pursuant to 28 U.S.C.1409. The alleged Assignment of October 28, 2009 is  
4 FRAUDULENT, and null and void.

5 6. To the extent of any non-bankruptcy claims for relief, this matter is a  
6 noncore proceeding and the Plaintiff consents to the entry of a final order in  
7 this case by the Bankruptcy Judge.

8 7. Debtor/Creditor scheduled Defendant, GMAC Mortgage, as a secured creditor  
9 with a mortgage on real property located at 2563 Alexander Farms Drive  
10 Marietta, Georgia 30064.

11 8. HOMECOMINGS FINANCIAL, LLC as Servicing Agent for JP Morgan Chase Bank, NA,  
12 filed a fraudulent proof of claim on December 18, 2006. The documents attached  
13 to the proof of claim include a deed of trust and note to Defendant Mortgage  
14 Electronic Registration Systems, Inc., with several endorsements on the note, a  
15 suspect assignment to GMAC.

16 9. Defendant, Mortgage Electronic Registration Systems, Inc. is listed as the  
17 nominee for Defendant, HOMECOMINGS FINANCIAL, LLC, and its successors and  
18 assigns and is the beneficiary under the deed of trust referenced in paragraph

19 10. Upon investigation the Plaintiff has determined the lien on the property in  
20 question is backed by Defendant, GMAC MORTGAGE LLC.

21 11. The assignment to GMAC was executed by A. Torres, a MERS employee who signed  
22 the document as an officer of Defendant MERS. Prepared by attorney Jeffrey  
23 Stephan, it was executed on October 29, 2009, but purports to be effective as  
24 of July 9, 2009. Mr. Stephan's office has since closed due to allegations of  
25 foreclosure fraud and Mr. Stephan has been deposed in other lawsuits and  
26 admitted to signing approximately 10,000 documents a month which were often  
27 notarized a day later, failing to verify information contained in the documents

28 COMPLAINT TO DETERMINE THE NATURE, EXTENT AND VALIDITY OF LIEN AND DISALLOW SECURED  
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1 he signed or even to review the documents, and other behaviors at odds with the  
2 legitimate execution of real estate security documents. The three endorsements  
3 on the note appear to have been executed by other people who have been  
4 identified in other cases around the country as people who signed documents  
5 indiscriminately with bizarre "limited signing authorities" associated with  
6 Defendant MERS.

7 12. In the event that the Defendants' lien is not perfected or could be avoided,  
8 Plaintiff believes that the residence is property of the bankruptcy estate, and  
9 is property which the Debtor/Creditor may use, sell or lease pursuant to 11  
10 U.S.C. §363. Accordingly, Plaintiff seeks entry of a Judgment that his interest  
11 in the property is superior to that of the Defendants pursuant to 11 U.S.C.  
12 §544.

13 13. Plaintiff further states that the Insurance purchase during closing paid off  
14 his alleged Mortgage Loan to GMAC and that based on information and belief, his  
15 debt is paid in full.

16 **FIRST CLAIM FOR RELIEF**

17 [AS TO GMAC MORTGAGE LLC SUCCESSOR BY MERGER TO GMAC MORTGAGE CORPORATION AS  
18 SERVICER FOR THE BANK OF NEW YORK MELLON TRUST COMPANY, NATIONAL ASSOCIATION  
19 FKA THE BANK OF NEW YORK TRUST COMPANY, N.A. AS SUCCESSOR TO JP MORGAN CHASE  
20 BANK N.A., AS TRUSTEE FOR RAMP 2003-RS11, AND ALL PERSONS CLAIMING BY, THROUGH,  
21 OR UNDER SUCH PERSON, ALL PERSONS UNKNOWN, CLAIMING ANY LEGAL OR EQUITABLE  
22 RIGHT, TITLE, ESTATE, LIEN , OR INTEREST IN THE PROPERTY DESCRIBED IN THE  
23 COMPLAINT ADVERSE TO PLAINTIFFS' TITLE THERETO AND DOES 1-13][QUIET TITLE]

24 14. Plaintiff re-alleges and incorporates the allegations contained In preceding  
25 Paragraphs, inclusive, as though set forth at length herein.

26 15. Plaintiff is the owner of the subject property now held by the Plaintiff's  
27 Estate.

28 16. The basis of Plaintiff's title is a deed granting the above-described property  
in fee simple to Plaintiff.

COMPLAINT TO DETERMINE THE NATURE, EXTENT AND VALIDITY OF LIEN AND DISALLOW SECURED  
CLAIM, THILA VIOLATION, FRAUD, LIBEL, QUIET TITLE, TRO, PRELIMINARY AND PERMANENT  
INJUNCTIONS FOR VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT - 4

1 17. Plaintiff is informed and believes and on such information and belief alleges  
2 that Defendant McCurdy & Candler, LLC, GMAC MORTGAGE LLC AS SERVICER FOR THE  
3 BANK OF NEW YORK MELLON TRUST COMPANY, NATIONAL ASSOCIATION FKA THE BANK OF NEW  
4 YORK TRUST COMPANY, AS SUCCESSOR TO JP MORGAN CHASE BANK National Association  
5 and all persons claiming, by , through, or under such person, all persons  
6 unknown, claiming any legal or equitable right, title, estate, lien, or  
7 interest in the property described in the Complaint adverse to Plaintiff's  
8 title thereto, claim an interest adverse to Plaintiff in the above-described  
9 property as adverse interest the holder of a deed of trust against the subject  
10 property. Some of the Defendants including GMAC MORTGAGE LLC, MERS, GMAC  
11 MORTGAGE CORPORATION, THE BANK OF NEW YORK MELLON TRUST COMPANY AND JP MORGAN  
12 CHASE BANK National Association and unknown defendants, specifically those  
13 additionally designated as DOES 1-17, inclusive claim interests in the property  
14 adverse to Plaintiff as assignees and successors of Defendants.

15 WHEREFORE, Plaintiff is seeking to quiet title as of a date to be determined;  
16 for fees and costs of suit and incurred herein; and, for such other and further  
17 relief as the court deems just and proper.

18 WHEREFORE, Plaintiff prays as follows:

19 A. That a summons issue and be served on the Defendants, together with a  
20 copy of this complaint, and that Defendants be required to answer within the  
21 time required by law.

22 B. That upon a hearing of this cause the Court determine the nature and  
23 extent of the liens and **fraudulent Assignments** of the Defendants.

24 C. That upon a finding that the lien of the Defendants in the property is not  
25 perfected, the Court issue an order finding the interest of the Plaintiff in  
26 the property to be superior to that of the Defendants, and allow him to sell  
27

28 COMPLAINT TO DETERMINE THE NATURE, EXTENT AND VALIDITY OF LIEN AND DISALLOW SECURED  
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1 the property and use the proceeds of the sale for the benefit of the his  
2 estate.

3 D. That Plaintiff be awarded his reasonable costs in pursuing this cause

4 Pursuant to E.D. Bankr. LBR 300-1(b)(2).

5 E. That Plaintiff be awarded such further relief as may be warranted by the  
6 Premises.

7 F. Rescind the foreclosure sale of September 04<sup>th</sup> 2012, that was done without  
8 following Georgia Laws for Notice.


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10 Dated this 9/19/2012

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13 TODD A. WILLIAMS  
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B104 (FORM 104) (08/07)

|  |   |   |   |   |
|--|---|---|---|---|
| <b>ADVERSARY PROCEEDING COVER SHEET</b><br>(Instructions on Reverse)   |   | <b>ADVERSARY PROCEEDING NUMBER</b><br>(Court Use Only)                                |   |   |
| <b>PLAINTIFFS</b><br>TODD A. WILLIAMS<br>2563 ALEXANDER FARMS DRIVE<br>MARIETTA, GA 30064  | <b>DEFENDANTS</b><br>GMAC MORTGAGE, LLC<br>1100 VIRGINIA DRIVE<br>FORT WASHINGTON, PA 19034   |   |   |   |
| <b>ATTORNEYS (Firm Name, Address, and Telephone No.)</b>   | <b>ATTORNEYS (If Known)</b><br>LARREN M. NASBELSKY<br>MORRISON & FOERSTER LLP<br>1290 AVENUE OF THE AMERICAS<br>NEW YORK, NY 10104  |   |   |   |
| <b>PARTY (Check One Box Only)</b><br><input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin<br><input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other<br><input type="checkbox"/> Trustee   | <b>PARTY (Check One Box Only)</b><br><input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin<br><input type="checkbox"/> Creditor <input type="checkbox"/> Other<br><input type="checkbox"/> Trustee  |   |   |   |
| <b>CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)</b><br><br>ACTION TO DECLARE LIEN AND ENCUMBRANCE INVALID; Secs. 506(a); 1322(b)(2); AND GMAC HAD NO INTEREST IN THE PROPERTY AT THE TIME IT INITIATED ITS FORECLOSURE PROCEEDINGS; NO VALID ASSIGNMENT.   |   |   |   |   |
| <b>NATURE OF SUIT</b><br>(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)  |   |   |   |   |
| <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(1) – Recovery of Money/Property</b><br/> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property<br/> <input type="checkbox"/> 12-Recovery of money/property - §547 preference<br/> <input checked="" type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer<br/> <input type="checkbox"/> 14-Recovery of money/property - other<br/><br/> <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b><br/> <input checked="" type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property<br/><br/> <b>FRBP 7001(3) – Approval of Sale of Property</b><br/> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)<br/><br/> <b>FRBP 7001(4) – Objection/Revocation of Discharge</b><br/> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)<br/><br/> <b>FRBP 7001(5) – Revocation of Confirmation</b><br/> <input type="checkbox"/> 51-Revocation of confirmation<br/><br/> <b>FRBP 7001(6) – Dischargeability</b><br/> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims<br/> <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud<br/> <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny<br/> <div style="text-align: center;">(continued next column)</div> </td> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(6) – Dischargeability (continued)</b><br/> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support<br/> <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury<br/> <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan<br/> <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)<br/> <input type="checkbox"/> 65-Dischargeability - other<br/><br/> <b>FRBP 7001(7) – Injunctive Relief</b><br/> <input checked="" type="checkbox"/> 71-Injunctive relief – imposition of stay<br/> <input type="checkbox"/> 72-Injunctive relief – other<br/><br/> <b>FRBP 7001(8) Subordination of Claim or Interest</b><br/> <input type="checkbox"/> 81-Subordination of claim or interest<br/><br/> <b>FRBP 7001(9) Declaratory Judgment</b><br/> <input type="checkbox"/> 91-Declaratory judgment<br/><br/> <b>FRBP 7001(10) Determination of Removed Action</b><br/> <input type="checkbox"/> 01-Determination of removed claim or cause<br/><br/> <b>Other</b><br/> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i><br/> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)           </td> </tr> </table> |   |   | <b>FRBP 7001(1) – Recovery of Money/Property</b><br><input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property<br><input type="checkbox"/> 12-Recovery of money/property - §547 preference<br><input checked="" type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer<br><input type="checkbox"/> 14-Recovery of money/property - other<br><br><b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b><br><input checked="" type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property<br><br><b>FRBP 7001(3) – Approval of Sale of Property</b><br><input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)<br><br><b>FRBP 7001(4) – Objection/Revocation of Discharge</b><br><input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)<br><br><b>FRBP 7001(5) – Revocation of Confirmation</b><br><input type="checkbox"/> 51-Revocation of confirmation<br><br><b>FRBP 7001(6) – Dischargeability</b><br><input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims<br><input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud<br><input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny<br><div style="text-align: center;">(continued next column)</div> | <b>FRBP 7001(6) – Dischargeability (continued)</b><br><input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support<br><input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury<br><input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan<br><input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)<br><input type="checkbox"/> 65-Dischargeability - other<br><br><b>FRBP 7001(7) – Injunctive Relief</b><br><input checked="" type="checkbox"/> 71-Injunctive relief – imposition of stay<br><input type="checkbox"/> 72-Injunctive relief – other<br><br><b>FRBP 7001(8) Subordination of Claim or Interest</b><br><input type="checkbox"/> 81-Subordination of claim or interest<br><br><b>FRBP 7001(9) Declaratory Judgment</b><br><input type="checkbox"/> 91-Declaratory judgment<br><br><b>FRBP 7001(10) Determination of Removed Action</b><br><input type="checkbox"/> 01-Determination of removed claim or cause<br><br><b>Other</b><br><input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i><br><input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) |
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| <input type="checkbox"/> Check if this case involves a substantive issue of state law  |   | <input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23 |   |   |
| <input checked="" type="checkbox"/> Check if a jury trial is demanded in complaint   |   | Demand \$ <u>3. Million Dollars</u>   |   |   |
| Other Relief Sought  |   |   |   |   |

| BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES   |   |                                     |
|---|---|-------------------------------------|
| NAME OF DEBTOR<br><i>GMAC MORTGAGE</i>  | BANKRUPTCY CASE NO.<br><i>12-12032</i>                        |                                     |
| DISTRICT IN WHICH CASE IS PENDING<br><i>Southern DISTRICT OF NEW YORK</i>   | DIVISION OFFICE<br><i>MANHATTAN</i>                           | NAME OF JUDGE<br><i>Martin Glem</i> |
| RELATED ADVERSARY PROCEEDING (IF ANY)   |   |                                     |
| PLAINTIFF   | DEFENDANT   | ADVERSARY PROCEEDING NO.            |
| DISTRICT IN WHICH ADVERSARY IS PENDING  | DIVISION OFFICE   | NAME OF JUDGE                       |
| SIGNATURE OF ATTORNEY (OR PLAINTIFF)<br> |   |                                     |
| DATE<br><i>9/24/12</i>  | PRINT NAME OF ATTORNEY (OR PLAINTIFF)<br><i>Todd Williams</i> |                                     |

### INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.