

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: RESIDENTIAL CAPITAL, LLC, et al.

Case No.: 12-12020 MG
Chapter 11

Debtor

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GEORGE VAN WAGNER,
Plaintiff,

Adversary Proceeding No.: 12-01913 MG

v.

RESIDENTIAL FUNDING COMPANY,
LLC, et al.; NATIONAL CITY
MORTGAGE;
GOLDEN & AMOS, PLLC; TIM AMOS
GMAC MORTGAGE;
PETER T. DEMASTERS;
FLAHERTY, SENSABAUGH, BONASSO
PLLC;
SUSAN ROMAIN
PNC BANK NATIONAL ASSOCIATION;
SENECA TRUSTEES, INC.;
JASON MANNING,
TROUTMAN SANDERS, LLP
Defendants.

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DEFENDANT SENECA TRUSTEES, INC.'S MOTION TO DISMISS

PLEASE TAKE NOTICE, Defendant Seneca Trustees, Inc. (“Seneca”), by counsel, Chris R. Arthur and the law firm of Samuel I. White, P.C., will make a motion to this Court before the Honorable Martin Glenn, Judge of the United States Bankruptcy Court, Alexander Hamilton Custom House, One Bowling Green, New York, NY 10004-1408, on **January 29, 2013 at 10:00 a.m.** of that day or as soon thereafter as counsel can be heard for entry of an Order; pursuant to 12(b)(6) and 12(h)(3) of the Federal Rules of Civil Procedure, Seneca respectfully moves this Court for an Order dismissing the Plaintiff’s Complaint and Motion to Enjoin Wrongful Foreclosure Action on the basis that the complaint fails to state a claim upon which relief may be granted and this Court lacks subject matter jurisdiction as Congress granted limited jurisdiction to the U.S. Bankruptcy Court for any matter that includes a cause of action relating to non-core



matters. Seneca further asserts that Plaintiff cannot pursue this suit because this suit is barred by res judicata and collateral estoppel.

WHEREFORE, Defendant Seneca Trustees, Inc. respectfully moves this Court to dismiss the Plaintiff's Adversary Complaint, and allow it such other and further relief as this honorable Court deems just and proper.

This 21st day of November 2012.

SENECA TRUSTEES, INC.,

By Counsel,

/s/ Kiyam J. Poulson
Kiyam J. Poulson, Esq.
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Chris R. Arthur, Esq. (WVSB #9192)
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304-414-0200
Pro Hac Vice Motion filed

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Defendants.

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 21st day of November, 2012, a full and complete copy of the foregoing **“DEFENDANT SENECA TRUSTEES, INC.’S MOTION TO DISMISS”** was served upon the counsel of record via U.S. Mail, postage prepaid, and addressed as follows:

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Pro Se Plaintiff

/s/ Kiyam J. Poulson
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Chris R. Arthur, Esq. (WVSB #9192)