

HEARING DATE: April 11, 2013 at 10:00 A.M. (ET)

**UNITED STATES BANKRUPTCY COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

In Re:

RESIDENTIAL CAPITAL, LLC, *et al.*,
Debtors.

Case No. 12-12020
Chapter 11

Jointly Administered

KEVIN J. MATTHEWS

Plaintiff

Adv. Proc. No. 12-01933 (MG)

v.

GMAC Mortgage Co., LLC
Defendant

**PLAINTIFF’S OBJECTION AND OPPOSITION TO DEFENDANT’S
MOTION TO DISMISS AND REQUEST TO EXTEND THE PERIOD OF TIME
FOR PLAINTIFF TO RESPOND TO THE MOTION**

Plaintiff Kevin J. Matthews by and through his undersigned counsel, hereby objects and opposes Defendant GMAC Mortgage Co.’s Motion to Dismiss the Plaintiff’s Adversary Proceeding (Doc. 6) (“Motion”) and in support states the following:

1. The undersigned counsel did not realize until today that the ECF notice which came with the motion identified the response as being due today (ten days after the filing of the 26



day motion) rather than the customary 21 days allowed under both the Federal Rules of Civil Procedure which are generally incorporated into the Bankruptcy Rules.

2. Upon consultation with counsel for the Defendant the undersigned now understands the basis for the ten day response deadline identified by the Defendant in its filing of the Motion.
3. The undersigned counsel requests that the Court find any delay in filing this initial objection and opposition be excused for inadvertent error, not on the part of the Plaintiff, but his counsel. No party has suffered any prejudice from the delay and the hearing set on the motion is more than two months away.
4. By this reference, Plaintiff incorporates his well pled Motion for Partial Summary Judgment (Doc. 5) as if stated herein. In light of Maryland law and the undisputed material facts outlined in Mr. Matthews' motion, he has stated a plausible claim against Defendant GMAC in his Complaint.
5. Both the Defendant's Motion and Mr. Matthew's Motion for Partial Summary Judgment rely upon papers and factual and legal arguments as to certain claims and issues before the Court in the adversary Complaint.
6. Plaintiff requests leave to file his complete and final objection to Defendant's Motion on or before Tuesday, February 5, 2013 which would be a total of 21 days from the filing of the Motion by the Defendant and more than two months before the hearing on the Motion. No party will suffer any prejudice to this request. Counsel for the Defendant has indicated a willingness to discuss the briefing schedule but give other commitments were unable to do so before the filing of this paper

CONCLUSION

WHEREFORE, based upon the forgoing argument and objection/opposition, Mr. Matthews requests that the Court DENY Defendant GMAC's Motion to Dismiss and to GRANT leave to the Plaintiff to file a complete objection/opposition on or before Tuesday, February 5, 2013.

Respectfully Submitted,



Phillip R. Robinson
Legg Law Firm LLC
5500 Buckeystown Pike
Frederick, MD 21703
(301) 620-1016

CERTIFICATE OF SERVICE

I hereby certify and give notice that a copy of the foregoing was sent by electronic means to opposing counsel for GMAC and also regular U.S. mail, postage pre-paid, will be sent on this day the 29th day of January, 2013 to the following parties in this action:

Gary Lee
Norman Rosenbaum
Erica Richards
Morrison & Forestor, LLP
1290 Avenue of the Americas
New York, NY 10104

Counsel for the Debtors/Defendant



Phillip R. Robinson
Legg Law Firm LLC
5500 Buckeystown Pike
Frederick, MD 21703
(301) 620-1016