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

-----)	
In re:)	Case No. 12-12020 (MG)
)	
RESIDENTIAL CAPITAL, LLC, <i>et al.</i> ,)	Chapter 11
)	
Debtors.)	Jointly Administered
-----)	
WENDY ALISON NORA,)	Adv. Case No. 13-01208 (MG)
)	
Plaintiff,)	
)	
v.)	
)	
RESIDENTIAL CAPITAL, LLC, <i>et al.</i> ,)	
)	
Defendants.)	
-----)	

**DEBTORS' OBJECTION TO THE MOTION OF WENDY ALISON NORA
TO DISQUALIFY JUDGE MARTIN GLENN**



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The debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”) submit this objection (the “Objection”) to the motion to disqualify Judge Martin Glenn from presiding over any further proceedings in this matter [Docket Nos. 5346 and 5347, and Adversary Docket No. 34] (as amended, the “Disqualification Motion”) of Wendy Alison Nora (“Nora”).¹ In support of the Objection, the Debtors submit the declaration of Norman S. Rosenbaum, annexed hereto as Exhibit 1. In further support of the Objection, the Debtors respectfully represent as follows:

PRELIMINARY STATEMENT

1. The Court should deny the Disqualification Motion because Nora has provided no credible explanation as to why this Court’s impartiality might reasonably be questioned under 28 U.S.C. § 455. Nora has failed to provide even the slightest evidence in support of her allegation that this Court is biased against (i) Nora and her purported clients, or (ii) Borrowers² in general. In fact, Nora relies strictly on her own allegations. However, the record in these Chapter 11 Cases indicates just the opposite. This Court has made every effort to ensure that Nora will have a complete opportunity to

¹ The Disqualification Motion has been joined by Nora’s purported client, Paul Papas II. *See Joinder of Paul N. Papas II and Declaration in Support of Emergency Motion to Vacate Verbal “Orders” of Judge Martin Glenn Entered on October 9, 2013 Purporting the Require Attorney Wendy Alison Nora to Show Cause why she Should Not be Sanctioned for Filing the Response of Paul N. Papas II to the Debtors’ Objection to Claim #242 Initiated SUA Sponte on the Grounds that his Response was “Scurrilous” Under Bankruptcy Rule 9024 Incorporating Rule 60(b)(4) of the Federal Rules of Civil Procedure and Joinder the Motion to Disqualify Judge Martin Glenn Under 28 USC Secs. 144 and 466(a) and 455(b)(1)* [Docket No. 5382]. Papas’s joinder, to the extent relevant, parrots the arguments made in the Disqualification Motion.

² As used herein, the term “Borrower” means a person who is or was a mortgagor under a mortgage loan originated, serviced, and/or purchased or sold by one or more of the Debtors.

be heard on the potential revocation of her *pro hac vice* admission and that her purported clients are not prejudiced by any such revocation. Moreover, Nora's spurious allegations are belied by the record of these Chapter 11 Cases. This Court has afforded numerous procedural protections to *pro se* Borrowers during the pendency of these Chapter 11 cases. Recognizing the unfamiliar circumstances in which many Borrowers find themselves in filing pleadings and participating in hearings, this Court has gone to great lengths to allow Borrowers, both *pro se*, and those represented by counsel, a full and fair opportunity, to appear and present their positions in a multitude of contested matters and adversary proceedings. Nora's allegation that Judge Glenn has an active bias against Borrowers is nothing short of reckless, bordering on the absurd. Finally, even if Nora had made a colorable argument for the Court's disqualification under 28 U.S.C. § 455, disqualification would still be inappropriate because the assignment of a new judge to these Chapter 11 Cases on the eve of the Debtors' plan confirmation hearing would require the new judge to acquaint himself with the record in these complicated, 18-month-old cases. That would entail a massive waste of time and expense and would delay and potentially jeopardize the Debtors' anticipated emergence from Chapter 11. The imposition of such a burden on these proceedings is a factor relevant to the determination of the Disqualification Motion. Accordingly, the Debtors request that the Disqualification Motion be denied.

BACKGROUND

A. The October 9 Hearing and Order to Show Cause

2. Key to resolution of the Disqualification Motion is what happened at an omnibus hearing on October 9, 2013 in the Chapter 11 Cases (the “October 9 Hearing”) and the Court’s issuance of an order to show cause the next day.

3. During the October 9 Hearing, the Court questioned the basis for Nora’s appearance *pro hac vice* on behalf of Paul Papas II (“Papas”) in response to the Debtors’ objections to Papas’s proofs of claim. October 9 Hearing Transcript, annexed to Exhibit 1, at 56:23-58:24; 66:10-19. The Court stated, in relevant part, that Nora had filed a “frivolous” and “scurrilous” response to the Debtors’ objection to Papas’s proof of claim (the “Papas Response”), which “goes off in every tangent possible other than addressing the issues raised in the debtors’ papers.” *Id.* at 75:13-14. The Court stated to Nora that “the pleadings you have filed in this matter would support revoking your *pro hac vice* application. But I’m going to give you a chance to respond to that in writing.” *Id.* at 58:21-24. The Court stated that it would issue an order to show cause as to whether Nora had properly been granted *pro hac vice* admission to appear for anyone other than herself and, if so, whether her *pro hac vice* admission should be revoked. *Id.* at 58:11-24. The Court expressly stated that it would “reserve [judgment] until the Court . . . reads papers and hears argument on the order to show cause” *Id.* at 66:16-17. The Court then permitted Nora to respond to the Debtors’ objection to Papas’s claim. *Id.* at 59:12-14; 66:16-17. The Court stated that its decision on the Papas matter would be rendered in a written opinion. *Id.* at 77:9.

4. As the October 9 hearing continued, the Court heard the Debtors' objection to the claim of Caren Wilson ("Wilson"), another purported client of Nora. Because Wilson had very recently purported to amend her proof of claim, the Court adjourned the Debtors' objection to Wilson's claim at the Debtors' request. *Id.* at 143:8-144:5; 145:2-11. The Court stated:

The matter is adjourned and, [Debtors' counsel], you'll put it back on the calendar after the Court hears its order to show cause why Ms. Nora's pro hac application or pro hac status should be -- whether it should be revoked. We'll see -- Ms. Wilson better *consider* other counsel, but for now we'll go forward[.]

Id. at 144:20-25 (emphasis added).

5. Finally, the Court considered the Debtors' objection to proof of claim no. 997 of Jan Ibrahim ("Ibrahim" and the "Ibrahim Claim"). The Court did not permit Nora to appear on behalf of Ibrahim because she had not filed a notice of appearance for that purpose. *Id.* at 146:11-147:8. The Court then held that the Ibrahim Claim should be disallowed on the merits based on the Court's review of the papers.³

6. The next day the Court entered the *Order to Show Cause Why Pro Hac Vice Admission of Wendy Alison Nora Should Not be Revoked* [Docket No. 5330] (the "Order to Show Cause"). The Order to Show Cause requires Nora to appear on

³ *Id.* at 149:6-20 ("Mr. Ibrahim acknowledges that he applied for a loan modification and he alleges that while he was waiting for a modification, his loan was transferred to a collection agency, FBCS, Inc. The debtors' reply shows that Mr. Ibrahim ceased making payments on his loan in November 2008. The debtors mailed Mr. Ibrahim several breach of contract letters in 2009 and offered him a permanent loan modification on April 1, 2009. That loan modification was ultimately -- was denied on June 30, 2009 because Mr. Ibrahim failed to make the first payment under the modification. The debtors reported Mr. Ibrahim's account to the credit bureau on several occasions in 2009 because his account was past due at the time. Based on the Court's review of the papers, in particular the events submitted by the debtors, the objection to the claim of Mr. Ibrahim is sustained.").

November 7, 2013, at 2:00 p.m.⁴ to explain why her appearance as counsel *pro hac vice* on behalf of anyone other than herself *pro se* should not be revoked (assuming that such approval was ever granted in the first place). Order to Show Cause at 5. The Order to Show Cause provides that Nora's response shall address, *inter alia*, "what, if any, action or orders the Court should enter to protect the rights, if any, of the individuals on whose behalf Nora has sought to appear, in the event her *pro hac vice* admission is revoked."⁵ *Id.*

B. The Disqualification Motion

7. On October 13, 2013, Nora filed the Disqualification Motion. In it, Nora asserts that this Court showed "extreme bias and prejudice against [Nora] and her clients" at the October 9 Hearing. Motion ¶ 2. In fact, Nora asserts that the Order to Show Cause itself contains "indisputable evidence of Judge Glenn's personal bias against her clients," in providing that Nora's response shall address:

what, if any, action or orders the Court should enter **to protect the rights, if any, of the individuals on whose behalf Nora has sought to appear,** in the event her *pro hac vice* admission is revoked.

Motion ¶ 8, quoting Order to Show Cause at 5 (emphasis in Motion). According to Nora, "[a]ll individuals have rights" and thus "[n]othing could more clearly demonstrate Judge Glenn's personal bias against the individual homeowners in these proceedings than his own signed Order ... [that Nora] should show cause ... *whether these individuals have any rights in these proceedings.*" Motion ¶ 9 (emphasis in Motion).

⁴ The November 7, 2013 omnibus date was adjourned to November 15, 2013.

⁵ To date, the Court has not issued any orders on either the Papas Claim or the Ibrahim Claim.

8. Nora finds further evidence of the Court's bias against her and her purported clients in:

- the Court's statement that the Papas Response is scurrilous;
- the Court's purported statement on the record that Wilson "should seek other counsel because [Nora's] pro hac vice status was 'going to be revoked'"; and
- the Court's purported decision to verbally "**revoke**[] the pro hac admission of [Nora] and wantonly disallow the claim of Jan Ibrahim (Claim #997) for failure to appear and argue his response when [Nora] was present in the courtroom to argue on his behalf."

Motion ¶ 3 (emphasis in original).

9. In addition, Nora asserts that this Court has an active bias against Borrowers in general in these Chapter 11 Cases. Although Nora acknowledges that "[l]istening to any single hearing would suggest that Judge Glenn was sympathetic to the fate of [Borrowers] struggling" with foreclosure actions (Motion ¶ 14 n.8), she asserts that the Court's actions at the October 9 Hearing "exposed what [the Court's] bias has been all along: [the Court] will order whatever it takes to assure that the homeowner claims are marginalized, extinguished and crammed down into a pitiful ... \$57.6 million dollars, pro rata ..." Motion ¶ 20. *See also* Motion ¶ 14 (stating that the Court has "showed a distinct unwillingness to hear the concerns of the homeowner creditors").

10. As evidence of the Court's bias against Borrowers, Nora points to:

- the Final Supplemental Servicing Order permitting foreclosure actions against Borrowers to continue during the Chapter 11 Cases [Docket No. 774], by which the Court has "affirmatively aided the Debtors in obtaining more assets for liquidation," *id.* at ¶ 14;
- the Court's "stubborn[] deni[al of] relief from the automatic stay to every homeowner [to liquidate claims in another forum], whether represented or unrepresented by counsel," *id.* at n.8; and

- the Order to Show Cause, which was purportedly entered because the Court “has suddenly realized that, whereas almost all homeowner voices are on the verge of being silenced, not only do a few very loud voices remain (Nora, Papas and Nora’s clients) and a pretext must be found to silence those voices,” *id.* at ¶ 16.⁶

11. Accordingly, the Disqualification Motion seeks to disqualify this Court, pursuant to 28 U.S.C. § 455(a)-(b)(1), from hearing “any further matters in these proceedings,” including, but not limited to, the Debtors’ objection to Nora’s own proofs of claim, the confirmation of the Debtors’ Chapter 11 plan, the above-captioned adversary proceeding, and the Order to Show Cause. Motion at pp. 1-2.

OBJECTION

12. Disqualification for bias is governed by 28 U.S.C. § 455, which is made applicable to the Chapter 11 Cases and these proceedings by Bankruptcy Rule 5004(a). Section 455 states, in pertinent part, that:

[a]ny justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned [including] [w]here he has a personal bias or prejudice concerning a party.

28 U.S.C. 455(a)-(b)(1) (2006).

13. The purpose of section 455(a) is “to promote confidence in the judiciary by avoiding even the appearance of impropriety whenever possible.” *Da Silva Moore v. Publicis Groupe*, 868 F. Supp. 2d 137, 148 (S.D.N.Y. 2012). The test for recusal under section 455(a) is “whether ‘an objective, disinterested observer fully

⁶ See also Motion at ¶¶ 11, 15 (asserting that Nora is a “representative of the public interest” and is “the only voice which can integrate the facts and demonstrate that the numerous orders of this Court are legally unsupported” for her clients).

informed of the underlying facts, [would] entertain significant doubt that justice would be done absent recusal.” *Id.* at 149. “The alleged bias and prejudice [sufficient to warrant disqualification] must stem from an *extrajudicial* source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case.” *United States v. Grinnell Corp.*, 384 U.S. 563, 583 (1966) (emphasis added); accord *Lewis v. Tuscan Dairy Farms, Inc.*, 25 F.3d 1138, 1141 (2d Cir. 1994). “[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.” *Liteky v. United States*, 510 U.S. 540, 555 (1994); see *United States v. Colon*, 961 F.2d 41, 44 (2d Cir. 1992).

14. “To establish a basis for recusal, movants must overcome a presumption of impartiality, and the burden for doing so is substantial.” *Da Silva Moore*, 868 F. Supp. 2d at 150 (internal quotation and citation omitted). See also *United States v. Denton*, 434 F.3d 1104, 1111 (8th Cir. 2006) (“A judge is presumed to be impartial, and ‘the party seeking disqualification bears the substantial burden of proving otherwise.’”). As the Second Circuit has noted, “a judge has an affirmative duty ... not to disqualify himself unnecessarily, particularly where the request for disqualification was not made at the threshold of the litigation and the judge has acquired a valuable background of experience.” *Nat’l Auto Brokers Corp. v. Gen. Motors Corp.*, 572 F.2d 953, 958 (2d Cir. 1978), *cert. denied*, 439 U.S. 1072 (1979) (internal quotation omitted). See also *Da Silva Moore*, 868 F. Supp. 2d at 151 (noting that “the public interest mandates that judges not be intimidated out of an abundance of caution into granting disqualification motions ...”).

15. Finally, discretion is confided in the judge against whom disqualification is sought to determine whether to disqualify himself. See *In re Drexel*

Burnham Lambert, Inc., 861 F.2d 1307, 1312 (2d Cir. 1988) (judge presiding over a case is in the best position to appreciate the implications of those matters alleged in a recusal motion); *see also In re Kensington Int'l Ltd.*, 353 F.3d 211, 224 (3d Cir. 2003) (determination of recusal motion by presiding judge is particularly appropriate where the judge has presided over a complex litigation for an extended period).

A. The Court Is Not Biased Against Nora or Her Purported Clients

16. Nora's assertion that the Court is biased against her and her purported clients is unfounded.

17. As an initial matter, Nora's assertion that the Order to Show Cause *itself* demonstrates the Court's bias against Nora's purported clients by requiring Nora to state what orders the Court should enter "to protect the rights, if any," of those clients is on its face perplexing. It is of course true that Nora's purported clients indisputably "have rights" of due process in these Chapter 11 Cases. But it is clear from the transcript that the Court was referring to the *substantive rights*, if any, of these clients as creditors, not their procedural rights guaranteed by the U.S. Constitution. Moreover, by this provision, the Court is asking Nora what it can do to *protect* Nora's purported clients. Far from showing the Court's bias against them, the Order to Show Cause illustrates the Court's concern for Nora's purported clients to avoid punishing them for Nora's own intransigent behavior in these Chapter 11 Cases.

18. In addition, much of Nora's "evidence" of the Court's bias against her and her clients is directly controverted by the transcript of the October 9 Hearing. Even a cursory review of the transcript reveals that the Court did not revoke Nora's *pro hac vice* admission from the bench, tell Wilson that she "should seek other counsel"

based on the revocation of Nora's *pro hac* status, or disallow the Ibrahim Claim based on Nora's inability to appear on Ibrahim's behalf, as Nora contends (Motion ¶ 3). Instead, the transcript plainly establishes:

- the Court provided Nora with an opportunity to explain her position in writing, to reply to any other party who responds to the Order to Show Cause, and to appear in person to argue her position -- all before the Court reaches a decision as to her admission status,⁷ Exhibit 1 at 59:12-14; 66:16-17;
- the Court permitted Nora to appear on behalf of Papas, for whom she argued the merits of his response, and Wilson, whose matter was adjourned. *Id.* at 59:12-25; 143:8-144:19. The Court merely informed Wilson should that she should "consider" finding other counsel in light of recent developments, *id.* at 144:20-25;
- The Court refused to permit Nora to appear on behalf of Ibrahim because she had not filed a notice of appearance for that purpose (*id.* 146:11-147:8), and the Court disallowed the Ibrahim Claim *on the merits* considering the papers before the Court, not based on any default, *id.* at 149:6-20.

19. Equally misplaced is Nora's assertion that the Court's bias is evidenced by the Court's view of the Papas Response. Motion ¶ 3. As the Court suggested, the Papas response goes to great length to accuse the parties and the Court of perpetrating a fraud and completely fails to address the procedural issues presented by the Debtors' objection.⁸ See Exhibit 1 at 75:13-14. The court's displeasure with this

⁷ These are the exact procedures mandated by the Second Circuit Court of Appeals when a court considers whether to withdraw an attorney's *pro hac* vice admission. See *Martens v. Thomann*, 273 F.3d 159, 176-178 (2d Cir. 2001).

⁸ The most recent example of such a pleading is Nora's response to the Order to Show Cause, titled *Motion to Strike Order To Show Cause Entered on October 9, 2013 By Judge Martin Glenn ...* [Docket. No. 5502] (the "Response"). The Response devotes 10 out of 14 pages to attacking the Debtors, SilvermanAcampora LLP, and the Court. That filing accuses the Court, *inter alia*, of "misconduct," "extreme bias and prejudice," appointing "Special 'Borrowers' Counsel to pretend to protect the rights of homeowners," and lacking a "working knowledge of the concept of due process[.]" Response at 1; see also *id.* at ¶¶ 6, 11. And instead of offering a meaningful response to the Order to Show Cause, Nora instead purports to move
(*cont'd*)

pleading is not a basis for a bias claim. *See Grinnell Corp.*, 384 U.S. at 583; *Tuscan Dairy Farms*, 25 F.3d at 1141.

20. As a result, Nora has identified no basis for why the Court's impartiality might reasonably be questioned with respect to her and her purported clients.

B. The Court Is Not Biased Against Borrowers

21. Equally spurious is Nora's claim that this Court is biased against Borrowers in these Chapter 11 Cases.

22. The Court's entry of the Final Supplemental Servicing Order and the Court's denial of certain motions for stay relief filed by Borrowers⁹ as a matter of law *cannot* evidence bias for purposes of section 455 because those decisions are not extrajudicial in nature. *See Grinnell Corp.*, 384 U.S. at 583 ("The alleged bias and prejudice [sufficient to warrant disqualification] must stem from an extrajudicial source"); *Liteky*, 510 U.S. at 555 ("[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.").

(*cont'd from previous page*)

"to strike [the] order to show cause," demands that her motion "be heard only by a qualified judge of this Court" and states that "[t]here is nothing for the Movant to show cause for or about[.]" *Id.* at 1; *see also id.* at ¶ 12.

⁹ Contrary to Nora's assertion that the Court has steadfastly denied relief from the automatic stay to every Borrower (Motion at ¶ 14 n.8), the Court actually has granted Borrowers relief from the stay over the Debtors' objection in at least two cases. *See Order Granting Motion to Lift the Stay Filed by Ramon Quiroz* [Docket No. 5039]; *Order Modifying Automatic Stay with Respect to Action of Gregory Balensiefer* [Docket No. 2578]. Similarly, the Court has encouraged the Debtors to adopt flexible approaches to Borrower requests for relief from the automatic stay for those matters not covered by the Final Supplemental Servicing Order and consequently, has approved several stipulations modifying the automatic stay in favor of Borrowers. *See, e.g.*, Docket Nos. 1206, 4879.

23. Moreover, even if judicial rulings were relevant to the bias analysis, the Court's rulings contravene Nora's contention. This Court has made every effort to ensure that Borrowers, many of whom appear *pro se*, receive all possible procedural protections in prosecuting their claims against the Debtors. Specifically, the Court has:

- Approved the retention of SilvermanAcampora LLP as Special Counsel to the Creditors' Committee for Borrower Issues ("Special Counsel") [Docket No. 2315], to respond to questions and concerns of Borrowers regarding the Chapter 11 Cases and Borrower-specific issues including the scope of the Supplemental Servicing Order [Docket No. 391] and matters relating to the filing of proofs of claim and claim objections;
- Approved procedures with which the Debtors and Special Counsel must follow in connection with objection to Borrowers' proofs of claim [*see* Docket No. 3294];
- Established special evidentiary procedures for certain Borrowers appearing *pro se* [*see* Docket Nos. 5324, 5390]; and
- Ordered both the Debtors and Special Counsel to brief the validity, if any, of causes of action that Borrowers may have against the Debtors for wrongful denial of loan modification applications [Docket No. 5390];¹⁰ and
- Approved special procedures with respect to adversary proceedings commenced by Borrowers [*see* Docket No. 3294].

¹⁰ Nora actually asserts that Special Counsel has been "appointed to serve the Debtors and not the homeowners" and points to the fact that at the October 9 Hearing, the Court requested separate briefing from the Debtors and Special Counsel on an issue of importance to Borrowers, noting that Special Counsel is representing different interests from the Debtors. Motion ¶ 20 n.13. Again, this assertion is a puzzler. The Court's statement that Special Counsel represents a *different interest* from the Debtors, such that separate briefing from Special Counsel is required, would seem to indicate just the opposite of Nora's assertion. In any event, Nora offers no evidence of Special Counsel's abdication of its duties to Borrowers and there is no rational basis for believing that any has occurred. Instead, as she often does, Nora baldly asserts some nefarious purpose to a decision or proceeding without supplying any supporting *evidence*. Litigation conducted in this manner is irresponsible and wasteful.

24. In combination, the foregoing provide Borrowers with substantial procedural protections that address concerns and issues unique to Borrower interests. At the same time, the Court has afforded Borrowers, and in particular those appearing *pro se*, a full and fair opportunity to represent their interests in connection with numerous contested matters and adversary proceedings. The Court has allowed all such Borrowers (most of whom appear telephonically) to present to the Court their positions, background and argument and has facilitated their ability to do so in what is of course an unfamiliar environment often through Court's own line of questions. The Court frequently advises Borrowers to communicate with Special Counsel and has promoted this dialogue in an effort to address their particular concerns and issues. In short, Nora's naked, wholly unsupported allegation that Judge Glenn has an active bias *against* Borrowers is absurd.

25. Nora's claim that the Court's bias against Borrowers is evidenced by the Court's efforts to "silence" Nora as a mouthpiece for "homeowner voices" and the "public interest" in these Chapter 11 Cases (*see* Motion at ¶¶ 11, 15, 16) is equally absurd. Nora's suggestion that she is somehow a voice for Borrower interests is nothing short of hubris. The Court's issuance of the Order to Show Cause stems not from a desire to silence Borrowers but from Nora's own conduct in these Chapter 11 Cases.

26. Accordingly, Nora has failed to demonstrate any bias of this Court or to set forth any reason why the Court's impartiality might reasonably be questioned.

C. Disqualification of This Court Could Jeopardize the Administration of These Chapter 11 Cases

27. As a final matter, the granting of the Disqualification Motion at this stage of the Chapter 11 Cases would be highly prejudicial to the Debtors. This Court is intimately aware of the details of these Chapter 11 Cases, having presided over them

for the past 18 months. Assigning another judge to these cases days before the Debtors' plan confirmation hearing is set to begin would entail a massive waste of time and expense and would delay, and potentially jeopardize, the Debtors' anticipated emergence from Chapter 11. Those who ultimately would suffer the most from such a development are those who hold legitimate claims against the Debtors, to whom distributions would be delayed due to Nora's personal (but unsubstantiated) mistrust of the Debtors and the Court. Given this Court's expertise with these Chapter 11 Cases and their advanced stages, this Court should be reluctant to grant the Disqualification Motion, even if Nora had established a colorable basis for disqualification under 28 U.S.C. § 455, which she plainly has not. *See Nat'l Auto Brokers*, 572 F.2d at 958 (2d Cir. 1978) (A judge should not "disqualify himself unnecessarily, particularly where the request for disqualification was not made at the threshold of the litigation and the judge has acquired a valuable background of experience.") (internal quotation omitted).

CONCLUSION

28. Accordingly, for the reasons set forth herein, the Debtors respectfully request that the Court deny the Disqualification Motion and grant such other and further relief as the Court deems just and proper.

Dated: November 8, 2013
New York, New York

/s/ Norman S. Rosenbaum
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Exhibit 1 to Objection

Rosenbaum Declaration

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

-----)	
In re:)	Case No. 12-12020 (MG)
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RESIDENTIAL CAPITAL, LLC, <i>et al.</i> ,)	Chapter 11
)	
Debtors.)	Jointly Administered
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WENDY ALISON NORA,)	Adv. Case No. 13-01208 (MG)
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Plaintiff,)	
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v.)	
)	
RESIDENTIAL CAPITAL, LLC, <i>et al.</i> ,)	
)	
Defendants.)	
-----)	

**DECLARATION OF NORMAN S. ROSENBAUM IN SUPPORT OF DEBTORS'
OBJECTION TO THE MOTION OF WENDY ALISON NORA TO DISQUALIFY
JUDGE MARTIN GLENN**

I, Norman S. Rosenbaum, hereby declare as follows:

I am an attorney duly licensed to practice law in the State of New York, and am a partner with the law firm of Morrison & Foerster LLP, counsel for the Debtors in the above captioned chapter 11 cases. I submit this declaration in support of the *Debtors' Objection to the Motion of Wendy Alison Nora to Disqualify Judge Martin Glenn*. Except where otherwise indicated, I have personal knowledge of the facts set forth in this declaration and, if called upon as a witness, I could and would testify competently as to these facts.

Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the transcript of the hearing on October 9, 2013 in *In re Residential Capital, LLC, et al.*, No. 12-12020 (MG) (Bankr. S.D.N.Y.).

I declare under penalty of perjury under the laws of the law of the United States of America that the foregoing is true and correct.

Executed this 8th day of November, 2013, at New York, New York.

/s/ Norman S. Rosenbaum
Norman S. Rosenbaum

Exhibit 1 to Declaration

Transcript Excerpts

In Re:

RESIDENTIAL CAPITAL, LLC, et al.

Case No. 12-12020-mg

October 9, 2013

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1 MS. HAGER: Okay.

2 THE COURT: Okay. It could have been a dollar. It
3 would still raise the same issue as to whether it's asserted a
4 claim for the liability.

5 MS. HAGER: And we respectfully submit, as is set
6 forth in our papers, that the proof of claim, as filed, even
7 adding in all the documents with the reply, fails to state a
8 sound legal basis for any claims against any of these debtors.

9 THE COURT: All right. I'm going to take it under
10 submission.

11 MS. HAGER: Thank you. Let's see. That will bring us
12 to the second contested matter which is Paul Papas. I think my
13 colleague Adam Lewis will be handling that. Thank you, Your
14 Honor. May I be excused?

15 THE COURT: Yes, you can.

16 MS. HAGER: Thank you.

17 THE COURT: Who is here for Mr. Papas?

18 MR. LEWIS: I think Ms. Nora is here today.

19 Your Honor, Adam Lewis.

20 THE COURT: Hang on just a second. Ms. Nora come up
21 here. Ms. Nora, are you appearing for Mr. Papas?

22 MS. NORA: I am, Your Honor.

23 THE COURT: Have you been admitted pro hac vice to
24 represent Mr. Papas?

25 MS. NORA: I have, Your Honor. I have --

1 THE COURT: No, you haven't.

2 MS. NORA: I've been --

3 THE COURT: No, you haven't.

4 MS. NORA: -- admitted pro hac vice to represent
5 myself --

6 THE COURT: Speak into the microphone.

7 MS. NORA: -- myself and all others similarly
8 situated.

9 THE COURT: Well, that's wrong. That's wrong. Okay.

10 MS. NORA: Are you revoking that order today?

11 THE COURT: Well, I'm entering an order -- I'm going
12 to enter an order to show cause --

13 MS. NORA: Okay.

14 THE COURT: -- why your -- why leave to appear in the
15 ResCap cases pro hac vice should not be revoked.

16 MS. NORA: All right.

17 THE COURT: Okay.

18 MS. NORA: I need to be able to respond to that --

19 THE COURT: I went back -- stop. Just -- yes, you
20 will have a chance to respond to it. Okay? I'm going to enter
21 a written order to that effect.

22 I went back and looked at the order that got entered,
23 it was in the form you submitted it. It doesn't say -- you
24 recite that you think you're representing thousands of people.
25 You have your own lawsuit. And it's certainly proper for you,

1 pro se, to appear.

2 Have you appeared for any other creditors in this
3 case?

4 MS. NORA: I have, Your Honor.

5 THE COURT: How many?

6 MS. NORA: I have appearances for Shane Haffey as co-
7 counsel with pro hac vice counsel, Heather McKeever that will
8 be heard on November --

9 THE COURT: Okay.

10 MS. NORA: -- 7th.

11 THE COURT: All right. I'm going to enter -- well, if
12 it's going to be heard on November 7th, I will enter an order
13 to show cause why your pro hac vice admission should not be
14 revoked for anyone other than appearing on your own behalf.
15 The pleadings you filed in this matter, this specific matter --

16 MS. NORA: You're talking about Papas?

17 THE COURT: -- yes, I'm talking about Papas.

18 MS. NORA: Yes.

19 THE COURT: Are scurrilous and frivolous and are
20 vexatious. And I believe that they -- even assuming you were
21 admitted pro hac to represent anybody other than yourself, the
22 pleadings you have filed in this matter would support revoking
23 your pro hac vice application. But I'm going to give you a
24 chance to respond to that in writing.

25 MS. NORA: Absolutely, Your Honor. Because this

1 entire proceeding --

2 THE COURT: Ms. --

3 MS. NORA: -- is a fraud.

4 THE COURT: I do not want to hear -- you have been
5 nothing but accusations about fraud in connection --

6 MS. NORA: We can prove it, Your Honor.

7 THE COURT: Stop.

8 MS. NORA: We can --

9 THE COURT: Don't interrupt, Ms. Nora. Don't
10 interrupt. Go sit down. Go sit down.

11 MS. NORA: I am --

12 THE COURT: I will give you an opportunity to argue
13 with respect to Mr. Papas' claim. If you deviate from
14 addressing solely the issues with respect to Mr. Papas' claim,
15 I will cut you off and I will have you escorted from the
16 courtroom. So go sit down, and I will give you a chance to
17 respond only to the specific issues raised by the objection to
18 the Papas claim.

19 I don't want to hear about approval of the disclosure
20 statement. I don't want to hear about anything else that
21 happened in the case. I don't want to hear anything else from
22 you now. If you say another word, I'm going to have you
23 escorted from the courtroom right now. So go sit down, and I
24 will give you a chance to respond solely with respect to the
25 Papas claim.

1 to go through that unless you have further questions. These
2 are our main points; they're not our only points. But I think
3 the res judicata -- the claim preclusion, Rooker-Feldman takes
4 out the original proof of claim and anything in the amendment
5 that has to do with the original proof of claim. Anything in
6 the amendment which doesn't have to do with the original proof
7 of claim is late filed.

8 THE COURT: Okay. Let me hear from Ms. Nora.

9 MR. LEWIS: Thank you, Your Honor.

10 THE COURT: And I'll hear from Ms. Nora without -- I
11 want to make clear that she filed a notice of appearance with
12 respect to Mr. Papas reasonably recently. She did not seek pro
13 hac admission to represent Mr. Papas. I think the issue is
14 unclear whether she was admitted to represent anybody other
15 than herself.

16 I'll reserve that until the Court hears -- reads
17 papers and hears argument on the order to show cause. But for
18 today, I'm going to permit Ms. Nora to address specifically the
19 issues raised by the objection to claim.

20 MS. NORA: Thank you, Your Honor.

21 And in addition, I would like to call the Court's
22 attention to the fact that I have previously appeared for Mr.
23 Papas on a limited basis and also for another creditor in these
24 proceedings last year without objection from any party. So --
25 just in terms of the history which will be addressed on the

1 THE COURT: It went off in every conceivable
2 direction --

3 MR. LEWIS: Pretty --

4 THE COURT: -- other than responding --

5 MR. LEWIS: Yeah.

6 THE COURT: -- to the objection.

7 MR. LEWIS: Right. So on that ground alone --

8 THE COURT: It is that -- that is the reason, frankly,
9 that the Court is going to enter the order to show cause why
10 Ms. Nora's pro hac vice admission is unclear of -- certainly
11 for herself, and she'll be permitted to continue for herself,
12 but for anyone else, this is a frivolous pleading in my view,
13 the reply, the extent it goes off in every tangent possible
14 other than addressing the issues raised in the debtors' papers.

15 MR. LEWIS: Your Honor, my final point is I thought I
16 heard Ms. Nora say -- suggest that the amendment somehow
17 relates to the original proof of claim because the original
18 proof of claim said the property concerned there was an example
19 of what -- that would be pretty cryptic to begin with. But if
20 you look at the original proof of claim, there's no talking
21 about its being an example of anything. There's only one
22 property mentioned. There's no suggestion that there are any
23 other properties of concern. And so it clearly does not
24 relate.

25 THE COURT: Address her argument that the amendment is

1 THE COURT: Yeah, sure.

2 MR. LEWIS: We attached a form of order, of course,
3 when we filed the objection. The amended proof of claim is
4 something I think the Court will end up dealing with in some
5 fashion or another in ruling, or it may. And if it does, then
6 perhaps we need to submit --

7 THE COURT: I don't need anything else.

8 MR. LEWIS: Okay.

9 THE COURT: I -- it'll be addressed in an opinion.

10 MR. LEWIS: Okay. It would just -- something to
11 reflect --

12 THE COURT: I don't need anything else.

13 MR. LEWIS: Okay. All right.

14 THE COURT: The issue of the amended claim is dealt
15 with in Ms. Nora's reply and you've adequately dealt with it.

16 MR. LEWIS: Okay. Thank you, Your Honor.

17 THE COURT: Okay.

18 What's next?

19 MR. WISHNEW: Your Honor, Jordan Wishnew, Morrison &
20 Foerster for the debtors.

21 That brings us to the next contested claims matter
22 which is a matter of twenty-second omnibus objection. There
23 are two claims being --

24 THE COURT: What page of the agenda?

25 MR. WISHNEW: I'm sorry, Your Honor; page 20.

1 were not in a foreclosure so our representation was completely
2 accurate and I'll leave it at that, Your Honor.

3 THE COURT: I'm taking the matter under submission.

4 MR. WISHNEW: Thank you.

5 MR. ESKANOS: Your Honor, am I excused?

6 THE COURT: Yes, you are.

7 MR. ESKANOS: Thanks, Your Honor. Have a great day.

8 MR. WISHNEW: Your Honor, that brings us to the matter
9 of Caren Wilson, claim number 4754. I believe Ms. Nora's in
10 the courtroom and has put in an appearance for Ms. Wilson.

11 This is a matter, Your Honor, which we are not going
12 to proceed with today. The reason --

13 THE COURT: As I understand it, there was an amended
14 claim, 475 --

15 MR. WISHNEW: 7181 --

16 THE COURT: Okay. 4754, which is the claim as to
17 which you have objected, has been superseded by an amended
18 claim?

19 MR. WISHNEW: That's the representation, Your Honor,
20 yes.

21 THE COURT: Have you verified that there was an
22 amended claim that was filed.

23 MR. WISHNEW: Yes, there was an amended claim that was
24 filed.

25 THE COURT: And what is your intention to do with

1 respect to the amended claim?

2 MR. WISHNEW: Our intention is to address both this
3 claim, 4754, and 7181 in a more complete objection that
4 addresses not only the merits of 4754 but also the timeliness
5 and merits of 7181.

6 THE COURT: All right. Ms. Nora, do you want to be
7 heard briefly? This was filed as a -- Ms. Wilson filed this
8 claim without counsel but when did you begin -- have you filed
9 an appearance in this?

10 MS. NORA: I believe I have, Your Honor.

11 THE COURT: Come on up to the microphone.

12 MS. NORA: Thank you.

13 Your Honor, we object to the debtors' taking this
14 matter off of the calendar for today without notice to us. Ms.
15 Wilson and her expert witness have come to court today, would
16 like to make at least a partial record so that the Court is
17 partially informed. I --

18 THE COURT: The matter is adjourned.

19 MS. NORA: Thank you.

20 THE COURT: The matter is adjourned and, Mr. Wishnew,
21 you'll put it back on the calendar after the Court hears its
22 order to show cause why Ms. Nora's pro hac application or pro
23 hac status should be -- whether it should be revoked. We'll
24 see -- Ms. Wilson better consider other counsel, but for now
25 we'll go forward but I'm -- Mr. Wishnew, when was the amended

1 claim filed?

2 MR. WISHNEW: The amended --

3 THE COURT: It was filed on September 23rd, 2013.

4 MR. WISHNEW: That's correct, Your Honor.

5 THE COURT: And --

6 MR. WISHNEW: Which was three weeks after --

7 THE COURT: After you filed your objection.

8 MR. WISHNEW: -- the objection was filed and one week
9 before the response was filed.

10 THE COURT: Absolutely. Which seems to be Ms. Nora's
11 method of dealing with matters. So the matter is adjourned.

12 MS. NORA: Your Honor, I --

13 THE COURT: I don't want to hear anything more from
14 you, Ms. Nora.

15 MS. NORA: That is unfair to me.

16 THE COURT: Ms. Nora, I don't want to hear anything
17 more from you. Let's move on, Mr. Wishnew.

18 MR. WISHNEW: Your Honor, the next matter before the
19 Court is the claim 2552 by Constantino and Sybil Acevedo. Your
20 Honor, this is a claim in the matter -- in the amount of
21 \$497,839.61. Based on extensive review of the debtors' books
22 and records, we show that this claim was -- actually, the
23 underlying note and loan were paid off, funds were applied on
24 August 9, 2013 and a refund of escrow was disbursed to Mr. and
25 Ms. Acevedo August 27, 2013.

1 What they seem to be asserting in their claim is that
2 since GMAC has sought financial relief, they too should be
3 given financial relief. I'm not quite sure -- it's our
4 position that does not serve as a valid basis for a claim, and
5 that at this point, we would ask the claim be disallowed and
6 expunged.

7 THE COURT: For the reasons argued by the debtors the
8 claim of Constantino and Sybil Acevedo, the objection is
9 sustained and the claim is expunged.

10 MR. WISHNEW: Thank you, Your Honor.

11 The next matter is Jan Ibrahim, claim number 997, in
12 the amount of \$206,922.56.

13 THE COURT: Is anybody appearing for Jan Ibrahim?

14 MS. NORA: Your Honor?

15 THE COURT: Go ahead.

16 MS. NORA: I have consulted with Mr. Ibrahim and --

17 THE COURT: Have you filed an appearance on behalf of
18 Ibrahim?

19 MS. NORA: I have not because I --

20 THE COURT: Then I'm not going to hear you.

21 MS. NORA: -- Your Honor --

22 THE COURT: I'm not going to hear you.

23 MS. NORA: -- Mr. Ibrahim's position was if he could
24 not appear himself he wanted me to advise the Court of the
25 facts of his case.

1 THE COURT: You're not permitted, Ms. Nora. You have
2 not appeared on behalf of Jan Ibrahim. I'm not going to listen
3 to you.

4 MS. NORA: Thank you, Your Honor.

5 THE COURT: One more -- one more episode of your
6 speaking on matters in which you do not appear and the court
7 security officer who's in the back of the room will escort you
8 out.

9 Go ahead, Mr. Wishnew.

10 MR. WISHNEW: Thank you, Your Honor.

11 With regards to Mr. Ibrahim's allegations of wrongful
12 foreclosure and wrongful reporting of loan modifications, this
13 is nothing more -- we felt it best to, again, revisit our
14 records, our servicing notes and related records and through
15 Ms. Horst, supplemental declaration and as set forth for the
16 Court the efforts made to -- to work with the debtor -- work
17 with the claimant, ultimately the loan was charged off, meaning
18 that simply the debtor ceased collection efforts -- I'm sorry;
19 ceased foreclosure efforts, and simply the loan remains
20 outstanding at this point in time. It's the debtors' position
21 that they acted properly in connection with any foreclosure and
22 credit reporting activities. They were doing what they were
23 supposed to be doing as a servicer to protect the property and
24 don't believe that Mr. Ibrahim has stated a valid claim for --

25 THE COURT: Let me ask you some questions.

1 connection with the sale, was it?

2 MR. WISHNEW: My understanding is that it was
3 transferred to Ocwen contemporaneous with the sale, February
4 16th of this year.

5 THE COURT: Okay. All right.

6 Mr. Ibrahim acknowledges that he applied for a loan
7 modification and he alleges that while he was waiting for a
8 modification, his loan was transferred to a collection agency,
9 FBCS, Inc. The debtors' reply shows that Mr. Ibrahim ceased
10 making payments on his loan in November 2008. The debtors
11 mailed Mr. Ibrahim several breach of contract letters in 2009
12 and offered him a permanent loan modification on April 1, 2009.
13 That loan modification was ultimately -- was denied on June 30, 2009
14 because Mr. Ibrahim failed to make the first payment under the
15 modification. The debtors reported Mr. Ibrahim's account to
16 the credit bureau on several occasions in 2009 because his
17 account was past due at the time. Based on the Court's review
18 of the papers, in particular the events submitted by the
19 debtors, the objection to the claim of Mr. Ibrahim is
20 sustained.

21 MR. WISHNEW: Thank you very much, Your Honor.

22 That brings us to the claim of Pamela Z. Hill, claim
23 number 2429. This is a claim in the amount of 389,331 dollars.
24 This matter -- again, it's not quite clear what the basis of
25 Ms. Hill's claim is. She is not --