

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

IN REF:

Adv, Case No.: 14-01778

GMAC MORTGAGE LLC

Debtor,

Case No.: 12-12032

CHARLES C. HEYWARD, PRO SE

14120 BISHOP CLAGGETT CT

UPPER MARLBORO MARYLAND 20772

vs.

GMAC MORTGAGE LLC,

7 CENTURY DRIVE

PARSIPPANY, NJ 07054

AND

OCWEN LOAN SERVICING, LLC

1661 WORTHINGTON ROAD

WEST PALM BEACH FL, 33409

AND

ALLY FINANCIAL, INC

AND

HOMEcomings FINANCIAL, LLC

P.O. BOX 205

WATERLOO, IA 50704

AND

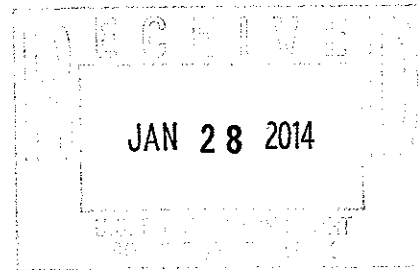
AMERICAN RESIDENTIAL MORTGAGE

AND

MORTGAGE ELECTRONIC REGISTRATION

SYSTEMS INC

**PLAINTIFF'S EMERGENCY  
MOTION FOR A TEMPORARY  
RESTRAINING ORDER**



PLAINTIFF'S EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER - 1



121202014013000000000006

1 AND

2 DEUTSCHE BANK TRUST COMPLANY

3 AMERICAS AS TRUSTEE FOR RALI 2006-QS6

4 AND

5 JOHN E. DRISCOLL, III, SUBSTITUTION OF

6 TRUSTEE, 2300 CANDLEWOOD DRIVE

7 ALEXANDRIA, VA 22308

8 AND

9 ROBERT E. FRAZIER, SUBSTITUTION OF

10 TRUSTEE, 20636 RAMSEY DRIVE

11 LEXINGTON PK, MD 20653

12 AND

13 JANA M. GANTT, SUBSTITUTION OF TRUSTEE

14 11450 LITTLE PATUXENT PKWY APT 602

15 COLUMBIA, MD 21044

16 AND

17 LAURA D. HARRIS, SUBSTITUTION OF TRUSTEE

18 1626 MELBY COURT

19 BALTIMORE, MD 21234

20 AND

21 KIMBERLY LANE, SUBSTITUTION OF TRUSTEE

22 AND

23 DEENA L. REYNOLDS, SUBSTITUTION OF

24 TRUSTEE, 302 KING FARM BLVD APT 3

25 ROCKVILLE, MD 20850

26 AND

27 CLASSIC SETTLEMENTS, INC

28 6 MONTGOMERY VILLAGE AVE

GAITHERSBURG, MD 20852

1 AND

2 RESIDENTIAL FUNDING COMPANY, LLC FKA

3 RESIDENTIAL FUNDING CORPORATION

4 800 NORMANDALE BLVD STE 250

5 MINNEAPOLIS, MN 55437

6 AND

7 SAMUEL I. WHITE, P.C.

8 121 HUMBIRD ST

9 CUMBERLAND, MD 21502

10 AND

11 HARVEY WEST AUCTIONEERS

12 300 E. JOPPA ROAD

13 HAMPTON PLAZA-SUITE 1103

14 BALTIMORE, MD 21286

Defendant

15 TO: THE HONORABLE MARTIN GLENN UNITED STATES BANKRUPTCY JUDDGE

16  
17 Charles C. Heyward, pro se Plaintiff in the within adversary proceeding ("Plaintiff"), respectfully represent:

- 18  
19 1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core  
20 proceeding pursuant to 28 U.S.C. § 157(b).

21 **RELIEF REQUESTED**

- 22  
23 2. Plaintiffs have filed this Motion for a Temporary Restraining Order seeking to restrain the Defendants  
24 GMAC Mortgage LLC, Residential Funding LLC, Ocwen Loan Servicing LLC and Samuel I. White, P.C.  
25 from foreclosing on Plaintiff's home on January 30, 2014 at 10:00 a.m. and allowing Plaintiff to proceed with  
26 the Loan Modification, that was requested by him from GMAC Mortgage but was never received by the  
27 Plaintiff.

28 PLAINTIFF'S EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER - 3

**BASIS FOR RELIEF REQUESTED**

3. Plaintiff has never received proper notice of the alleged foreclosure, and just became aware that Ocwen Loan Servicing LLC is his servicer.
4. Plaintiff has requested for a loan Modification but was told by GMAC that they was transferring his loan servicing rights to OCWEN LOAN SERVICING LLC, and that he would receive a package in the mail.
5. Plaintiff never received the loan package from Ocwen Loan Servicing LLC, and was told by Ocwen that they had not received his paperwork from GMAC, because of their pending Chapter 11.
6. The Motion for a Temporary Restraining Order or for a Preliminary Injunction could not have been brought sooner and now that irreparable harm is threatened by the prospect of a foreclosure sale on January 30<sup>th</sup>, 2014 at 10:00 a.m., plaintiff are similarly requesting that his Motion for a Temporary Restraining Order be heard via Court Call on January 29, 2014 to stop the Defendants of their illegal action.
7. This circumstance is not one of plaintiffs' choosing, and this motion is necessitated by the debtors' illegal assignments and false representation that a loan modification package would be coming.
8. Fed.R.Civ.P.65 does not require notice of filing of a Motion for a Temporary Restraining Order, although defendants' counsel are being notice via fax and U.S. Express Mail.
9. By this motion Plaintiff request, pursuant to the Federal Rules of Bankruptcy Procedure 9006©, that the Court fix the date and time for the hearing on the Motion for a Temporary Restraining Order so that it may be heard on January 29, 2014.

**CONCLUSION**

The Plaintiff respectfully request that the Court grant the proposed Order for a Temporary Restraining Order for January 29, 2014. At 10:00 a.m.

  
\_\_\_\_\_  
CHARLES C. HEYWARD, PRO SE

1 This certifies that on January 27, 2014 I sent copies of Plaintiff's Emergency Motion for A Temporary  
2 Restraining Order to the opposing party by first class mail, and via fax. They were addressed as follows:

- 3 1. Samuel I. White, P.C. Attorney and Counselors at Law  
4 611 Rockville Pike, Suite 100 Rockville, MD 20852  
5 Phone: 301-804-3400; Fax: 301-838-1954
- 6 2. Lorenzo Marnuzzi  
7 MORRISON & FOERSTER LLP  
8 1290 Avenue of the Americas New York, NY 10104 Via: Fax 212-468-7900
- 9 3. Larren M. Nashelsky  
10 MORRISON & FOERSTER LLP  
11 1290 Avenue of the Americas  
12 New York, NY 10104
- 13 4. Deutsche Bank Trust Company Americas as Trustee for Rali 2006-QS6 Via Fax: 212-797-0291  
14 60 Wall Street New York, New York
- 15 5. Ocwen Loan Servicing, LLC 1661 Worthington Road, Suite 100 West Palm Beach FL 33409  
16 Fax: 407-737-6174


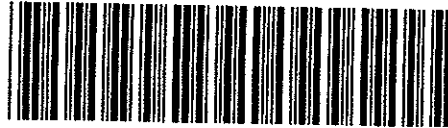
17  
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\_\_\_\_\_  
CHARLES C. HEYWARD, PRO SE

EXHIBIT  
A

Samuel I. White, P.C.  
PO Box 9005  
Temecula, CA 92589-9005



2280162949

PRESORT  
First-Class Mail  
U.S. Postage and  
Fees Paid  
WSO

20140109-114



Charles C. Heyward  
14120 Bishop Claggett Court  
Upper Marlboro, MD 20772

Send Correspondence to:  
Samuel I. White, P.C.  
5040 Corporate Woods Drive  
Suite 120  
Virginia Beach, VA 23462



46-009891-09  
2280162949  
VA\_FHLMC\_DEMAND\_SD

46-009891-09

**SAMUEL I. WHITE, P.C.**

**ATTORNEYS AND COUNSELORS AT LAW**  
Maryland, Virginia, West Virginia, and Washington DC

**611 Rockville Pike, Suite 100**  
**ROCKVILLE, MD 20852**

**(301) 804-3400**  
**FAX (301) 838-1954**

January 8, 2014

Charles C. Heyward

Re: Foreclosure Sale  
Property: 14120 Bishop Claggett Court, Upper Marlboro, MD 20772  
Our File No. 46-009891-09

Dear Property Owner:

Pursuant to Maryland Rule 14-206 and pursuant to Section 7-105 of the Real Property Article of the Maryland Code, we are hereby notifying you that the foreclosure sale of the above-captioned property will take place at public auction to be held at the Prince George's County Courthouse located at 14735 Main Street, Duval Wing Entrance, Upper Marlboro, MD 20772 on January 30, 2014 at 10:00 am, and will be sold then and there to the highest bidder(s).

Enclosed is a copy of an advertisement appearing in Washington Post, a newspaper published in and for Prince George's County, Maryland, setting forth particulars.

A copy of this letter and the advertisement is being sent to you by regular mail.

Very truly yours,

SAMUEL I. WHITE, P.C.

Enclosure

NOTICE: Pursuant to the Federal Fair Debt Collection Practices Act, we advise you that this firm is a debt collector attempting to collect the indebtedness referred to herein and any information we obtain from you will be used for that purpose.



46-009891-09

46-009891-09

Samuel P. White, P.C.  
611 ROCKVILLE PIKE

SUITE 100  
ROCKVILLE, MARYLAND 20852

SUBSTITUTE TRUSTEES' SALE OF  
VALUABLE FEE SIMPLE PROPERTY  
KNOWN AS

14120 BISHOP CLAGGETT COURT  
UPPER MARLBORO, MD 20772

Under and by virtue of the power of sale contained in a certain Deed of Trust to CLASSIC SETTLEMENTS INC, Trustee(s), dated April 28, 2006, and recorded among the Land Records of PRINCE GEORGE'S COUNTY, MARYLAND in Liber 25249, folio 532, the holder of the indebtedness secured by this Deed of Trust having appointed the undersigned Substitute Trustees, by instrument duly recorded among the aforesaid Land Records, default having occurred under the terms thereof, and at the request of the party secured thereby, the undersigned Substitute Trustee will offer for sale at public auction at THE PRINCE GEORGE'S COUNTY COURTHOUSE LOCATED AT 14735 MAIN ST, DUVAL WING ENTRANCE, UPPER MARLBORO, MD 20772 ON,

JANUARY 30, 2014 at 10:00 AM

ALL THAT FEE SIMPLE LOT OF GROUND and improvements thereon situated in PRINCE GEORGE'S COUNTY, MD and described as follows:

Lot numbered Ninety-Nine (99) in Block Lettered "X" in a Subdivision known as 'VILLAGES OF MARLBOROUGH, BISHOP'S BEQUEST, A RESUBDIVISION OF LOTS 63 & 64 , BLOCK K , AND LOTS 77 & 78 BLOCK "K" AS PER PLAT THEREOF RECORDED IN PLAT BOOK NLP 179 AT PLAT 60 AMONG THE LAND RECORDS OF PRINCE GEORGE'S COUNTY MARYLAND.

The property will be sold in an "AS IS WHERE IS" condition without either express or implied warranty or representation, including but not limited to the description, fitness for a particular purpose or use, structural integrity, physical condition, construction, extent of construction, workmanship, materials, liability, zoning, subdivision, environmental condition, merchantability, compliance with building or housing codes or other laws, ordinances or regulations, or other similar matters, and subject to easements, agreements and restrictions of record which affect the same, if any. The property will be sold subject to all conditions, liens, restrictions and agreements of record affecting same including any condominium and of HOA assessments pursuant to Md Real Property Article 11-110.

TERMS OF SALE: A deposit of \$30,000.00 payable in certified check or by a cashier's check will be required from purchaser at time of sale, balance in immediately available funds upon final ratification of sale by the Circuit Court of PRINCE GEORGE'S COUNTY, MARYLAND interest to be paid at the rate of 6.0% on unpaid purchase money from date of sale to date of settlement. The secured party herein, if a bidder, shall not be required to post a deposit. Third party purchaser (excluding the secured party) will be required to complete full settlement of the purchase of the property within TEN (10) CALENDAR DAYS of the ratification of the sale by the Circuit Court otherwise the purchaser's deposit shall be forfeited and the property will be resold at the risk and expense, of the defaulting purchaser. All other public charges and private charges or assessments, including water/sewer charges, ground rent, taxes if any, to be adjusted to date of sale. Cost of all documentary stamps and transfer taxes and all other costs incident to settlement shall be borne by the purchaser. If applicable, condominium and/or homeowner association fees and assessments will be adjusted to date of sale. If the sale is rescinded or not ratified for any reason, including post sale lender audit, or the Substitute Trustees are unable to convey insurable title or a resale



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46-009891-09  
is to take place for any reason, the purchaser(s) sole remedy in law or equity shall be limited to the refund of the aforementioned deposit. The purchaser waives all rights and claims against the Substitute Trustees whether known or unknown. These provisions shall survive settlement Upon refund of the deposit, this sale shall be void and of no effect, and the purchaser shall have no further claim against the Substitute Trustees. The sale is subject to post-sale review of the status of the loan and that if any agreement to cancel the sale was entered into by the lender and borrower prior to the sale then the sale is void and the purchaser's deposit shall be refunded without interest. Additional terms and conditions, if applicable, maybe announced at the time and date of sale. File No. (46-009891-09)

JOHN E. DRISCOLL III, et al SUBSTITUTE TRUSTEES

Harvey West Auctioneers  
300 E. Joppa Rd  
Hampton Plaza-Suite 1103  
Baltimore, MD 21286  
www.hwestauctions.com  
410-769-9797

Ad to appear in WASHINGTON POST, 01/14, 01/21, 01/28

EXHIBIT  
"B"

ResCap Claims Processing Center  
c/o KCC  
2335 Alaska Ave  
El Segundo, CA 90245

FIRST CLASS  
US POSTAGE PAID  
EL SEGUNDO CA  
PERMIT NO. 45049

Charles C. Heyward  
14120 Bishop Claggett Ct  
Upper Marlboro, MD 20772

**PROOF OF CLAIM CONFIRMATION**

Your proof of claim filed against GMAC Mortgage, LLC,  
case no 12-12032 was received on 12/17/2013  
and assigned claim number 7313

