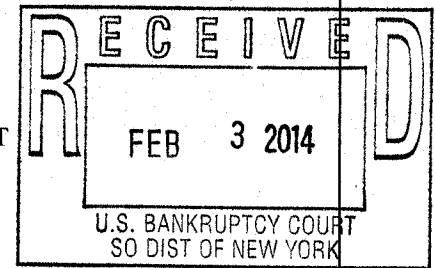


IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK



IN REF,
RESIDENTIAL CAPITAL, LLC, ET AL.,
DEBTORS
MARION L. JENKINS AND SHARON JENKINS,
Plaintiff,
vs.
RESIDENTIAL FUNDING COMPANY, LLC,
Defendant

Case No.: 12-12020(MG) / Adv. Case No. 12-01935

**MOTION TO RECONSIDER JANUARY 24TH, 2014 ORDER DISMISSING PLAINTIFF'S ADVERSARY
COMPLAINT FOR LACK OF SUBJECT MATTER JURISDICTION**

Marion L. Jenkins and Sharon Jenkins, pro se, files this Motion seeking reconsideration of this Court's Order Dismissing Complaint for Lack of Subject Matter Jurisdiction (the "Motion") pursuant to Fed.R.Bankr.P.9023, and states as follows:

PRELIMINARY STATEMENT

On January 24, 2014, this Court dismissed Defendants Wells Fargo and U.S. Bank from Plaintiff's Amended Complaint that was filed by the Plaintiff's because it concluded that it lacked subject matter jurisdiction to decide the issues presented by the Amended Complaint. This Court's reasoning was premised on its conclusion that it lacked both related to jurisdiction and supplemental jurisdiction to decide the case. While the Plaintiff disagrees with the Court's reasoning as to the former, its conclusions as to supplemental jurisdiction were premised on a mistake of fact. Contrary to the Court's finding on page 6, the Defendant's both have move to foreclose on Plaintiff's home.

The Court also erroneously concluded that Plaintiff failed to State a Claim upon which Relief can be granted by the entirety property interests. In fact, the sale of personal property that is a issue in the Amended Complaint is



1 owned by the Plaintiff's and is subject to execution in aid of this Court's prior judgment, just as in a garnishment
2 action.

3 The Court also erroneously concluded that Plaintiff failed to state a claim upon which relief can be granted. The
4 fact that there are FOUR CORRECTED ASSIGNMENTS filed on Plaintiff's property are bogus and void. Which
5 makes Plaintiffs claims valid in this adversary case.

6 **DIVERSITY JURISDICTION EXISTS**

7 As stated above, the Court erroneously found that the Plaintiff has been joined as a Plaintiff in this action,
8 depriving the federal courts of diversity jurisdiction. The Plaintiff is not a Debtor but a Creditor. Accordingly,
9 complete diversity exists, providing an independent ground for federal jurisdiction.

10 The Bankruptcy Court has a corresponding authority to the District Court to hear the matter. As adjuncts of the
11 district courts, bankruptcy courts have the same inherent powers as any other federal court to be known as the
12 bankruptcy court for the District. 29 U.S.C. § 151. This is particularly true in this matter where the Bankruptcy
13 Court has refused to withdraw the reference due to the Bankruptcy Court's particular and unique knowledge of the
14 facts at issue.

15 The Personal Property that is at issue is held by Mr. and Mrs. Jenkins as Owners. The Security Deed dated
16 February 29, 2006. MERS was acting solely as a nominee for Lender Mortgage Lenders Network USA. On or
17 about September 01, 2011 a CORRECTIVE ASSIGNMENT OF A CORRECTIVE ASSIGNMENT OF
18 SECURITY DEED was done between Mortgage Electronic Registration System Inc., to U.S. Bank, National
19 Association as Trustee for RASC 2005-EMX4. So where is the original assignment from GMAC?

20 Federal Rule of Civil Procedure 59, as incorporated by Bankruptcy 9023, provides that a party in interest may file
21 a motion to reconsider, alter or amend an order within ten(1)) days after the entry of an order. "Reconsideration is
22 granted for the following reasons: (1) to provide for intervening changes in controlling law;(2) the availability of
23 new evidence; or (3) to correct a clear error of law or prevent manifest injustice." Furthermore, in deciding whether
24 to grant motions pursuant to Bankruptcy Rule 9023, the Court has considerable discretion.

25 In the instant case, the Court made two clear errors of law. If it were not for these errors, the Amended Complaint
26 would not have been dismissed. The Court must reconsider its decision dismissing the Amended Complaint in light
27 of these errors.

28 **CONCLUSION**

1 For the reasons stated above, the Court should enter an order granting the Plaintiff's Motion to Reconsider Order
2 dismissing Adversary Proceeding for lack of subject matter jurisdiction.

3
4
5
6 MARION L. JENKINS AND SHARON JENKINS
7

8 **CERTIFICATE OF SERVICE**

9 I Marion L. Jenkins and Sharon Jenkins, certify that on the 25th day of January, 2014 a true and correct copy of
10 the PLAINTIFF'S Notice of Appeal was forwarded via U.S. Mail, first class postage prepaid and properly
11 addressed, to the following addresses shown below:
12

- 13 1. Stefan W. Engelhardt, MORRISON & FOERSTER LLP
1290 Avenue of the Americas New York, NY 10104
- 14 2. Residential Funding Company, LLC 8400 Normandale Lake Blvd Suite 350
15 Minneapolis, MN 55437
- 16 3. Mortgage Lenders Networks, USA Inc. Middlesex Corporate Center 213 Court Street 11th floor
17 Middletown, CT 06457
- 18 4. Christopher L. Hawkins BRADLEY ARANT ROSE & WHITE LLP
19 1819 Fifth Avenue North Birmingham, AL 35203
- 20 5. U.S. Bank National As Trustee for RASC 2006-emx 4
21 Attn: Brian J. Grieco
1819 Fifth Avenue North Birmingham, AL 35203
- 22 6. Kurtzman Carson Consultants LLC 2335 Alaska Avenue El Segundo, CA 90245
- 23 7. Shapiro & Swerfeger, LLP Buke Building Suite 100 2872 Woodcook Blvd Atlanta, GA 30341.

24
25
26
27 MARION L. JENKINS AND SHARON JENKINS
28