

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

Alfredia Pruitt

Plaintiff Pro se

Case No. 12-12020 (MG)

Adv. Case No. 13-01350 (MG)

RESIDENTIAL CAPITAL

GMAC

Defendant

Notice of Appeal was filed on February 10, 2014.

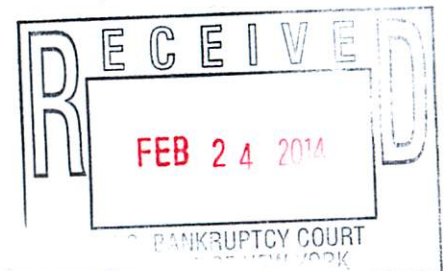
**Designation of the Contents of the Record on Appeal and Statement
of Issues.**

Appellant, Alfredia Pruitt, Pro Se, respectfully
submits this statement of issues to be presented on appeal and designation
of record items to be included in the record on appeal, to the United States
District Court for the Southern District of New York in connection with the
Notice of Appeal filed on February 10, 2014.

1. STATEMENT OF ISSUES PRESENTED

The Bankruptcy Court erroneously:

1. Dismissed Pro Se Plaintiff Wrongful Foreclosure complaint on the
grounds of res judicata with a Motion to Dismiss alone without a
Responsive Pleading, based on the lower court dismissal of Appellant.



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previous complaints for failure to state a claim.

Appellant filed previous complaints in the lower courts, that was dismissed because of failure to state a claim, Appellant Notice of Appeal in the first complaint in the lower court was overlooked, the second complaint in the lower court was dismissed because of failure to state a claim, the Pro se Appellant, was never given an opportunity to amend not one complaint, all Affidavit of Indigence was denied in the lower courts, All Notice of Appeals was denied in the lower courts, although All courts denied Appellant complaints not one court allowed Appellant to proceed, if Appellant had been given the opportunity to amend her complaint the last four would not have been necessary, those complaints were filed because of failure to state a claim. Appellant Appeal rights were taken away from her in the lower courts, there is no way if the evidence is applied a law with competent jurisdiction or non jurisdiction can say there is no Merits.

A complaint sought to be dismissed under rule 12(b)(6) usually may be amended, see Foman, v. Davis, 371 U.S. 178, 182(1962); Griggs v. Hinds Junior College, 563 F .2d 179, 179-80 (5th Cir. 1977); Fed R. Civ. P. 15(d); 2A J. Moore & J. Lucas, Moore's Federal Practice 12.07[2.5], at 12-72 (2d ed. 198), so that a complaint will not be dismissed for failure to state a claim unless it is certain that the "plaintiff can prove no set of facts in support of

his claim(Appellant can prove everything in her complaint(s), Appellant was never given a chance, indigence rights violated, Notice of Appeal(s) rights violated, etc.

If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim...matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

See Ross v. Franzen, 777 F.2d 1216, 1219(7th Cir.1985) Although a pro se litigant should not obtain any disadvantages in a law suit from his self-representation, he should not incur any disabilities from lack of legal training that easily could be of a pro se complaint are inappropriate bases for disposition of a case on the merits.

A complaint should not be dismissed for failure to state a claim unless it appears beyond a doubt that the Plaintiff can prove no set of facts in support of his claim which would entitle him to relief. See Conley v. Gibson, 355 U.S. 41, 45-46(1957) also Neitzke v. Williams, 109 S. Ct 1827, 1832(1989).

Rule 12(b)(6) does not countenance dismissal based on a judge's disbelief

of a complaint's factual allegations. In applying the Conley standard the Court will "accept the truth of the well-pleaded factual allegations of the complaint.

Baird v. Charleston County, 333 S.C. 519, 511 S.E. 2d69(1999); Stiles v. Onorato, 318 S.C. 297, 457 S.E.2d601(1995). If the facts and inferences drawn from the facts alleged on the complaint would entitle the plaintiff to relief on any theory, then the grant of a motion to dismiss for failure to state a claim is improper.

Appellant complaint(s) should not have been dismissed for failure to state a claim because the alleged facts could support a cause of action. The Gwinnett County Superior Court Allowed a stay in a chapter 7 filing that was different than the chapter 13(collections was never restarted in the chapter 7 case nor chapter 13). In each complaint in the lower court Appellant has produced evidence. Apelles filed a chapter 11 bankruptcy and listed Plaintiff (Appellant)as their creditor, once Appellant responded, requested answers, Apelles filed a Motion to dismiss. In Appellant bankruptcy GMAC was the creditor, once GMAC filed bankruptcy they list the Appellant as their creditor.

Not one time has GMAC responded by answering to Appellant

QWR(Qualified Written Request) to prove ownership of the note(Prove they are/were the Secured Creditor), nor responded to any of Appellants request to prove Appellant is wrong in assuming they are not the owner of the note(The Secured Creditor).

The only response from GMAC has been Motion(s)to Dismiss, If Plaintiff Rights of being Indigent, right to a Notice of Appeal(had not been violated, Appellant would not have been in bankruptcy court).

Appellant filed a chapter 7 in the lower court, foreclosure was never set aside under no circumstances for nothing. The Mortgage was sold in question, the owner is unknown, Appellant can prove GMAC is not the Secured Creditor, has never been. The additional claims were filed because of the original claim being dismissed for failure to state a claim, also Appellant, filed a Notice of Appeal within 6 days of the Dispossessory in the trial court and it was never addressed. Appellant has had numerous Affidavit(s) of Indigence Dismissed and Motions for Reconsiderations dismissed, Appellant requested Bond Waived and attached an Affidavit of indigent it was denied and dismissed, although Appellant was indigent, there was never a hearing held on Appellant status of Indigence. Appellant learned of additional information in reference to GMAC violation from the Federal government that she was not aware of in

the original claim. There was no way Appellant could have known this information.

Everything Appellant filed, pro se, was dismissed by the trial court.

Appellant was indigent, and still is. The Appellant was barred because of multiple claims filed in the trial court and a "Bill of Peace" was entered, if the trial court had treated Appellant(Pro Se)according to Puckett v. Cox, 456 F. 2d 233 (1972) (6th Cir. USCA) It was held that a pro se complaint requires a less stringent reading than one drafted by a lawyer per justice Black in Conley v. Gibson, Appellant would have had a fair opportunity to present her case and evidence into the court.

Appellant filed multiple claims, because of her constitutional rights being violated, not given a fair opportunity to amend, litigate, Appeal or even given the opportunity for "Due Process."

Because of Plaintiff Appeal being dismissed for no reason in the trial court, (Citation and punctuation omitted). Anderson v. Daniel, 314 Ga. App. 394, 395(724 SE2d 401)(2012). See also Scott v. Scott, 311 Ga. App. 726, 79(1)(716) SE2d 809(2011)is no longer necessary for a complaint to set forth all of the elements of a cause of action in order to survive a motion to dismiss for failure to state a claim. If, within the frame work, of the

complaint, evidence may be introduced which will sustain a grant of relief to the Plaintiff, the complaint is sufficient.”)(citations and punctuations omitted).

Appellant was not given “Due Process,” for complaint to be ordered and dismissed on the “Merits.”

Trial court dismissed Plaintiff claims for failure to state a claim without instructions of how pleadings are deficient and how to repair pleadings. See B. Platsky v. CIA. 953 F.2d 25, 26 28(2nd Cir. 1991).

Res judicata and collateral estoppels are not grounds for this case to be dismissed.

Appellant DESIGNATION OF RECORD ITEMS FOR APPEAL

Appellant designates the items listed below to be included in the record on appeal.

A. Designation No. A- Order, US SDNY Bankruptcy Court Judge Martin Glenn order on January 23, 2014.

B. Designation No. B-Transcript from Hearing on December 17, 2013.

C. Designation No. C-All Files pertaining to this case(EVERYTHING), That has been submitted by all parties.

I would like the Southern District of New York Bankruptcy court to send the

following to the United District Court:

- (1) the original papers and exhibits filed in the bankruptcy court;
- (2) the transcript of proceedings in the above case
- (3) a certified copy of the entries prepared by the Bankruptcy clerk.
- (4). The Above Designations A-C

Dated: This 22nd day of February, 2014.


Alfreda Pruitt
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To:

Clerk of the Bankruptcy Court
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Counsel for Debtors and Debtors In Possession
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(212) 468-8000

CERTIFICATE OF SERVICE

This is to certify that on this date, I Alfredia Pruitt, did mail by Delta-Dash(Express
Service The Designation of the Contents of the Record on Appeal and Statement of Issues
to the Southern District of New York Bankruptcy Court.

GMAC
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United States Bankruptcy Court
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Residential Capital, LLC, et a;
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Submitted this 23rd day of February, 2014.



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