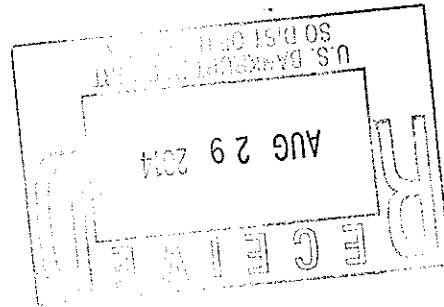


Jennifer L. Wilson
4365 School House Commons, 500-251
Harrisburg, NC 28075
Tel: 704-773-1712
Fax: 704-220-0566

August 27, 2014

Clerk of Court
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, NY 10004-1408

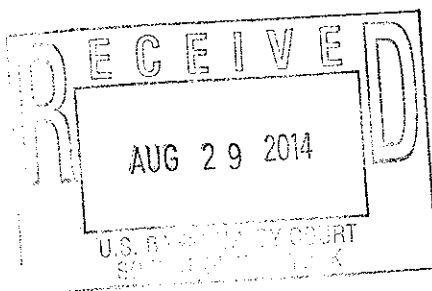
RE: NO. 12-12020 RESIDENTIAL CAPITAL, LLC
ADV. CASE: 12-01936-mg

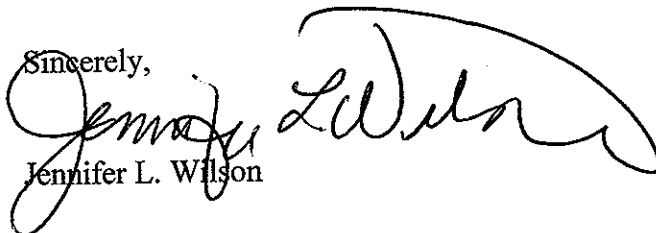


Dear Clerk:

Enclosed, please find REPLY IN OPPOSITION TO RES CAP to be filed in the above referenced matter. Additionally, second originals have been enclosed with a self addressed stamped envelope for the return of a file stamped original.

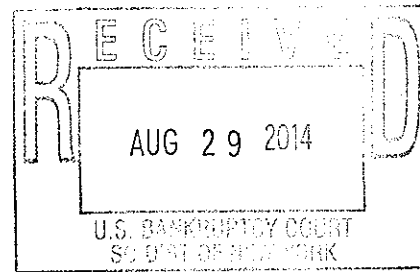
Thank you for your assistance.



Sincerely,

Jennifer L. Wilson



Jennifer L. Wilson, Sui Juris
4365 School House Commons, 500-251
Harrisburg, NC 28075
Ph.: 704-773-1712



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

Jennifer L. Wilson

Plaintiff,

v.

RESIDENTIAL CAPITAL, LLC, et al.,

Defendants.

In re

RESIDENTIAL CAPITAL, LLC, et al.,

Debtors

ADV. CASE: 12-01936-mg

CASE NO: 12-12020 (MG)

**REPLY IN OPPOSITION TO RESCAP LIQUIDATING TRUST
OBJECTION TO JENNIFER L. WILSON'S MOTION FOR LEAVE TO
APPEAL PURSUANT TO BANKRUPTCY RULE 8003; AND TITLE 28**

U.S.C. § 158(A)(3)

Plaintiff, Jennifer L. Wilson, submits this "REPLY IN OPPOSITION TO RESCAP LIQUIDATING TRUST OBJECTION TO JENNIFER L. WILSON'S MOTION FOR LEAVE TO APPEAL PURSUANT TO BANKRUPTCY RULE

8003; AND TITLE 28 U.S.C. § 158(a)(3) (“Reply”) to ResCap Liquidating Trust (“Residential Capital”) “Objection to Jennifer L. Wilson’s Motion for Leave to Appeal Pursuant to Bankruptcy Rule 8003: and Title 28 U.S.C. § 158(a)(3) filed August 14, 2014 (“Objection”):

PRELIMINARY STATEMENT

Residential Capital Objection alleges “Plaintiff has not demonstrated that there are any controlling questions of law at issue as to which there is substantial grounds for difference of opinion.” this allegation demonstrates the continual pervasiveness of Residential Capital, and its agents, to make pleas that are wholly unsupported by fact.

Wilson made clear in “Plaintiff’s Motion for Leave to Appeal Pursuant to Bankruptcy Rule 8003; and Title 28 U.S.C. § 158(a)(3)” (“Appeal Motion”) the questions of law that formulate the difference of opinion. (See Appeal Motion “Questions”, at *p. 7*)

Residential Capital appears to be more concerned about a material advancement for “the ultimate termination of the litigation” (see Objection ¶ 1) than the rights to which Wilson, as a matter of Law, is entitled.

Wilson’s Appeal Motion advanced more than just an “improper conclusion” of the Bankruptcy Court. (See Objection ¶ 1)

Wilson, at each and every stage of the proceedings, has continually objected to the jurisdiction of the Bankruptcy Court determine any dispositive motion. Jurisdiction can be challenged at any time even for the first time on appeal, and Wilson asserts the Bankruptcy Court was without jurisdiction.

The admission of the Scoliard and Delehey declarations by the Bankruptcy Court is a clear abuse of discretion, the declarations wholly failing to comport to the Fed. R. Evid. (See Objection Scoliard Declaration, Dkt. # 16, and Objection Delehey Declaration, Dkt. 59)

Residential Capital alleges that the Bankruptcy Court reached an improper conclusion does not constitute an “exceptional circumstance” warranting Appellant Court review of an interlocutory order. (See Objection, ¶ 1)

Demonstration of plea for “exceptional circumstances” is not a prerequisite for the Appellate Court review of an Interlocutory Order of the Bankruptcy Court pursuant to 28 U.S.C. § 158(a)(3) and/or Federal Bankruptcy Rule 8003.

FACTUAL BACKGROUND

a. Fraud Upon the Court Allegation.

Residential Capital continually misrepresents the facts in this case. In Residential Capital, relying on the Scoliard and Delehey declarations, that are subjects of the Appeal Motion, allege Wilson made allegations of fraud upon the court in the “District Court for the Western District of North Carolina, and Plaintiff’s action in the Middle District of North Carolina, as well as her contemporaneous allegations of fraud on the court made to the North Carolina Commissioner of Banks”. (See Objection ¶ 6, and *Fn.* 1) This allegation is wholly false and is repetitive of prior Residential Capital allegation.

Wilson never alleged “fraud upon the court” before the District Court Western District of North Carolina, the Middle District of North Carolina, or in the complaint to the North Carolina Commissioner of Banks.¹ Counsel for Residential Capital, being schooled in the law, is fully aware allegations of fraud upon a court requires a heightened level of evidence to conclusive prove, beyond any reasonable doubt, before a court will entertain setting aside a judgment.

¹ The Complaint filed in the District Court for the Western District was voluntarily dismissed by Wilson upon learning the venue was improper, and refiled essentially the same Complaint in the District Court Middle District of North Carolina, thus these two actions are actually one. The North Carolina Commissioner of Banks Complaint does not allege any fraud upon the court, stating, “I recently discovered that the foreclosure action brought against me was done illegally ...” Wilson never asserts any claim of fraud in the Complaint to the North Carolina Commissioner of Banks. (See Delehey Declaration, *Dkt.* # 55, Exhibit 5, *p.* 3)

b. May 1 Hearing.

In an effort to mitigate the allegations of fraud upon the North Carolina state court, Residential Capital asserts Wilson “alleged **misconduct** arising during the North Carolina state court foreclosure proceeding ...” (See Objection, ¶ 14) (Emphasis added) The representation “**misconduct**” by Residential Capital is wholly false. Wilson armed with the NOTE² copy, evidencing an indorsement, attached to the Scoliard declaration, offered proof beyond reasonable doubt Residential Capital, through its agent SunTrust Bank, committed fraud upon the North Carolina state court. This evidence was unknown to Wilson until submission with the Scoliard Declaration, thus, prior to the Scoliard Declaration Wilson was absent the support necessary to meet the heightened evidentiary requirements to prove fraud upon the North Carolina state court.

ARGUMENT

Residential Capital argues 28 U.S.C. § 1292(b) provides that leave should only be granted if the order being appealed (1) “involves a controlling question of law”; (2) “as to which there is substantial ground for difference of opinion”; and (3) “an immediate appeal from the order may materially advance the ultimate termination of the litigation.” (See Objection, ¶ 20)

c. This Is A Clear Question Of Law.

Resolution of an issue need not necessarily terminate an action in order to be controlling, it is clear that a question of law is “controlling” if reversal of the district court's order would terminate the action. *Klinghoffer*, 921 F.2d 21, at 24; see also *Picard v. Estate of Madoff*, 464 B.R. 578, at 582 (holding that a “controlling question of law” is one “in which reversal of the bankruptcy court's

² The NOTE copy attached to the Scoliard Declaration evidenced one blank indorsement. The NOTE copy attached to the Delehey evidenced two indorsement and converted the one blank indorsement to a special indorsement. Delehey declared the custodian for the Trust, Wells Fargo, completed the indorsement. No provision is set forth in the Trust documents for the custodian for the trust to complete a Note indorsement. (See Delehey Declaration, *Dkt.* 55, p. 4, ¶ 12).

order would (1) terminate the action or (2) materially affect the outcome of the litigation.”); *MCI WorldCom Communications v. Communications Network International, Ltd.*, 358 B.R. 76, 79 (S.D.N.Y. 2006)

The jurisdiction of the Bankruptcy Court to determine a dispositive motion is a pure question of law that would reverse the Bankruptcy Court’s order and materially affect the outcome of the litigation.

d. There Are Substantial Grounds For Difference Of Opinion.

There are substantial grounds for difference of opinion as to the question of law and a genuine doubt as to whether the bankruptcy court applied the correct legal standard. Whether there is substantial ground for a difference of opinion as to the question of law requires a genuine doubt as to whether the bankruptcy court applied the correct legal standard. (See *MCI WorldCom*, 358 B.R. 76, at 79; see also *Picard*, 464 B.R. 578, at 582; *In re Fairfield Sentry Ltd. Litigation*, 458 B.R. 665, at 673).

At the May 1st hearing Residential Capital agreed with Wilson the action was a non-core proceeding, thus the Bankruptcy Court would be absent jurisdiction to decide on a dispositive motion. (See May 1 Hearing Transcript, p. 9, l. 25, and p. 10, ll. 1-3)³

e. Time For Litigation Will Be Shortened.

An immediate appeal is considered to advance the ultimate termination of the litigation if that appeal promises to advance the time for trial or to **shorten the time required for trial**. (See *In re Perry H. Koplik & Sons, Inc.*, 377 B.R. 69, at 74 (quoting *Transport Workers Union of Am. Local 100. AFL-CIO v. N.Y.C. Transit Auth.*, 358 F. Supp. 2d 347, 350 (S.D.N.Y. 2005)); see also *Mills v. Everest Reinsurance Co.*, 771 F. Supp. 2d 270,274 (S.D.N.Y. 2009).

³ “The debtors have conceded that the action is noncore and we have consented to entry of a final order or judgment in this case in accordance with Bankruptcy Rule 7012(b) and Local 3 Rule 7012-1.”

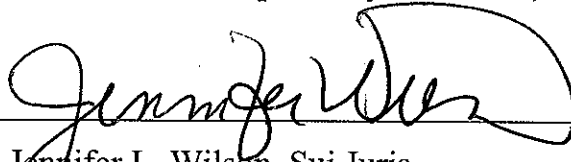
The order of the Bankruptcy Court, notwithstanding its lack of jurisdiction in a non-core proceeding, restricted Wilson to amending only the Unfair and Deceptive Practices Act claim thereby effectively barring Wilson from adding a claim for fraud upon the North Carolina state court. Thus, litigation that could have been removed from the Bankruptcy Court to the District Court, by way of Wilson's pending Motion for Withdrawal of Reference, which would effectively shortened the time required for litigation and ultimate termination of Wilson's claims is now precluded.

CONCLUSION

FOR ALL the foregoing reasons Appellate Court review is warranted and this Court should grant Plaintiff, Jennifer L. Wilson, Motion for Leave to Appeal Pursuant to Bankruptcy Rule 8003; and Title 28 U.S.C. § 158(a)(3).

Date: August 28, 2014

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer Wilson", is written over a horizontal line.

Jennifer L. Wilson, Sui Juris
4365 School House Commons, 500-251
Harrisburg, NC 28075
Ph.: 704-773-1712

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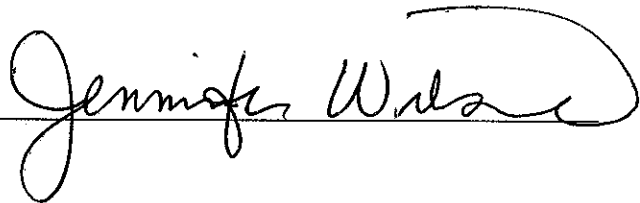
PROOF OF SERVICE

I, Jennifer L. Wilson, hereby certify that on August 29, 2014, I served a copy of the foregoing by email addressed to defendants counsel of record as follows:

Samantha Martin, Associate
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104
(212) 336-4128
(212) 468-7900
SMartin@mofo.com

This the 29th day of August, 2014.

By: _____

A handwritten signature in cursive script, appearing to read "Jennifer Wilson", written over a horizontal line.

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