

Hearing Date and Time: March 31, 2015 at 10:00 a.m. (Prevailing Eastern Time)

Response Date and Time: March 23, 2015 at 4:00 p.m. (Prevailing Eastern Time)

MORRISON & FOERSTER LLP
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Norman S. Rosenbaum
Jordan A. Wishnew
Erica J. Richards

Counsel for the ResCap Liquidating Trust

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X	:	
Charles C. Heyward	:	
	:	
Plaintiff,	:	Adv. Proc. 14-01778 (MG)
	:	
v.	:	
	:	
GMAC Mortgage, LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	
-----X	:	
In re	:	
	:	Case No. 12-12020 (MG)
RESIDENTIAL CAPITAL, LLC, <i>et al.</i> ,	:	
	:	Chapter 11
	:	
Debtors.	:	Jointly Administered
-----X	:	

**NOTICE OF THE RESCAP LIQUIDATING TRUST'S
MOTION TO DISMISS PLAINTIFF'S ADVERSARY COMPLAINT**

PLEASE TAKE NOTICE that on March 13, 2015, the undersigned filed the attached *ResCap Liquidating Trust's Motion to Dismiss Plaintiff's Adversary Complaint* (the "**Motion**") with the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**").



PLEASE TAKE FURTHER NOTICE that a hearing to consider the Motion will take place on **March 31, 2015 at 10:00 a.m. (Prevailing Eastern Time)** before the Honorable Martin Glenn, United States Bankruptcy Judge, in Courtroom 501 at the Bankruptcy Court, One Bowling Green, New York, New York 10004.

PLEASE TAKE FURTHER NOTICE that responses, if any, to the Motion must be made in writing, conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, and the Notice, Case Management, and Administrative Procedures approved by the Bankruptcy Court [Docket No. 141], be filed electronically by registered users of the Bankruptcy Court's electronic case filing system, and be served, so as to be received no later than **March 23, 2015 at 4:00 p.m. (Prevailing Eastern Time)**, upon: (a) Chambers of the Honorable Martin Glenn, United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408; (b) counsel to the ResCap Liquidating Trust, Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019 (Attention: Norman S. Rosenbaum, Jordan A. Wishnew and Erica J. Richards); (c) the Office of the United States Trustee for the Southern District of New York, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014 (Attention: Linda A. Riffkin and Brian S. Masumoto); (d) The ResCap Liquidating Trust, Quest Turnaround Advisors, 800 Westchester Avenue, Suite S-520, Rye Brook, NY 10573 (Attention: Jeffrey Brodsky); (e) The ResCap Borrower Claims Trust, Polsinelli PC, 900 Third Avenue, 21st Floor, New York, NY 10022 (Attention: Daniel J. Flanigan); and (f) Charles C. Heyward, 14120 Bishop Claggett Court, Upper Marlboro, MD 20722.

PLEASE TAKE FURTHER NOTICE that if an objection to the Motion is not timely filed and served, the Bankruptcy Court may enter an order granting the relief requested in the Motion without further notice or opportunity to be heard afforded to any party.

Dated: March 13, 2015
New York, New York

/s/ Norman S. Rosenbaum

Norman S. Rosenbaum

Jordan A. Wishnew

Erica J. Richards

MORRISON & FOERSTER LLP

250 West 55th Street

New York, New York 10019

Telephone: (212) 468-8000

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Counsel for the ResCap Liquidating Trust

Hearing Date and Time: March 31, 2015 at 10:00 a.m. (Prevailing Eastern Time)

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

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Charles C. Heyward	:	
	:	Adv. Proc. 14-01778 (MG)
Plaintiff,	:	
	:	
v.	:	
	:	
GMAC Mortgage, LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	
-----X	:	
In re	:	Case No. 12-12020 (MG)
	:	
RESIDENTIAL CAPITAL, LLC, <i>et al.</i> ,	:	Chapter 11
	:	
Debtors.	:	Jointly Administered
-----X	:	

**THE RESCAP LIQUIDATING TRUST'S MOTION
TO DISMISS PLAINTIFF'S ADVERSARY COMPLAINT**

The ResCap Liquidating Trust (the “Liquidating Trust”) , as successor in interest to GMAC Mortgage, LLC (“GMACM” or “Defendant”), and any other debtors in the above-captioned chapter 11 cases (collectively, the “Debtors”) purportedly named as defendants in this adversary proceeding, hereby submits this motion (the “Motion”) to dismiss the above-referenced adversary proceeding (the “Adversary Proceeding”) commenced by Plaintiff Charles C. Heyward (“Plaintiff”). The Liquidating Trust seeks entry of an order substantially in the form annexed hereto as Exhibit 1 dismissing the Adversary Proceeding for Plaintiff’s failure to comply with the Court’s Supplemental AP Procedures (defined below). In support of the Motion, the Trust submits the declaration of Jordan A. Wishnew of Morrison & Foerster LLP, counsel to the Liquidating Trust (the “Wishnew Declaration”), attached hereto as Exhibit 2.

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 (a) and 1334(b). Venue is proper under 28 U.S.C. § 1409. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(1) and (b)(2). Nonetheless, pursuant to Local Bankruptcy Rule 7012-1, the Trust consents to entry of a final order or judgment by this Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.

II. BACKGROUND

A. General Bankruptcy Case Background

2. On May 14, 2012, each of the Debtors filed a voluntary petition in this Court for relief under Chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”).

3. On February 21, 2013, in the face of an expanding docket of adversary proceedings filed by current and former borrowers, the Debtors filed a motion [Docket No. 2994]¹ to establish certain supplemental procedures to assist the Debtors and the Court in managing these adversary proceedings, many filed by pro se litigants. As explained in the motion, it was evident from many of these adversary proceedings that the litigants did not fully understand the limits of this Court's jurisdiction, the relief otherwise available to the plaintiffs (including under the Supplemental Servicing Order) or the claims objection and allowance process. On March 22, 2013, the Court granted the motion and entered an order approving a supplement to the case management order, which established mandatory procedures for the management of adversary proceedings commenced by borrowers (the "Supplemental AP Procedures"), [Docket No. 3293], as amended on April 22, 2013. [Docket No. 3490].

4. On December 11, 2013, the Court entered an *Order Confirming Second Amended Joint Chapter 11 Plan Proposed by Residential Capital, LLC et al. and the Official Committee of Unsecured Creditors* (the "Confirmation Order") approving the terms of the Chapter 11 plan, as amended (the "Plan"), filed in these Chapter 11 cases [Docket No. 6065]. On December 17, 2013, the Plan went effective in accordance with its terms and the Liquidating Trust was created [Docket No. 6137]. The Liquidating Trust retains responsibility for the management and litigation of the adversary proceedings pending against the Debtors, including those commenced by borrowers.

¹ References to "Docket No." herein are to pleadings filed on the main case docket, Case No. 12-12020. References to "AP Docket No." herein are to pleadings filed on the Adversary Proceeding docket, Case No. 14-01778.

B. Events Giving Rise to the Adversary Proceeding

5. On January 16, 2014, Plaintiff filed a complaint initiating this Adversary Proceeding. [AP Docket No. 1]. Mr. Heyward, however, has failed to make any effort to prosecute his case.

6. On January 28, 2014, Plaintiff filed an emergency motion seeking entry of a temporary restraining order to prevent a foreclosure sale of the Plaintiff's property that was purportedly scheduled for January 30, 2014 from going forward (the "TRO Motion") [AP Docket No. 3]. On January 30, 2014, the Court entered an order denying the TRO Motion based on representations by the Liquidating Trust's counsel, Morrison & Foerster LLP, that Ocwen Loan Servicing LLC ("Ocwen") is the current servicer of the Plaintiff's loan and that Ocwen had advised the Liquidating Trust that it would adjourn the foreclosure sale [AP Docket Nos. 4, 5].

7. On February 19, 2014, the Liquidating Trust served a notice of applicability of the Supplemental AP Procedures (the "Notice of AP Procedures") on Plaintiff, together with a copy of the Supplemental AP Procedures [AP Docket No. 9]. The Supplemental AP Procedures require, among other things, that Plaintiff provide the Debtors with his contact information, participate in an initial conference with the Debtors, and meet and confer in good faith. Supplemental AP Procedures, ¶¶ 1, 4.

8. On April 24, 2014, Plaintiff filed a second emergency motion seeking entry of a temporary restraining order to prevent a foreclosure sale of the Plaintiff's property scheduled for April 28, 2014 from going forward (the "Second TRO Motion") [AP Docket No. 10]. On that same day, the Court entered an order denying the Second TRO Motion [AP Docket No. 11].

9. After being served with the Notice of AP Procedures, Plaintiff failed to comply with its terms. First, Plaintiff failed to provide the Liquidating Trust with updated

contact information as required by paragraph 2 of the Supplemental AP Procedures. See Wishnew Decl. ¶ 2. Plaintiff also failed to cooperate with the Liquidating Trust's efforts to schedule the initial conference, as required by paragraph 4 of the Supplemental AP Procedures. See Wishnew Decl. ¶ 3. The Liquidating Trust's counsel, Morrison & Foerster LLP, attempted to contact Plaintiff through letters sent via overnight mail directed to the address listed by Plaintiff in his complaint on March 25, 2014, April 1, 2014, and April 15, 2014. Id. Plaintiff has not responded to any of those letters. Id.

10. On April 28, 2014, the Trust submitted the *ResCap Liquidating Trust's Progress Report* [AP Docket No. 12]. The Plaintiff never contacted the Trust's counsel after the Liquidating Trust filed the Progress Report (see Wishnew Decl. ¶ 4), nor did the Plaintiff file his own progress report with the Court.

11. On May 29, 2014, a status conference for the Adversary Proceeding was held (the "Status Conference"). Plaintiff did not attend the Status Conference, during which the Court authorized the Liquidating Trust to file a motion to dismiss the Adversary Proceeding. Plaintiff has not contacted the Trust following the Status Conference. Wishnew Decl. ¶ 5.

III. ARGUMENT

12. Plaintiff has made no effort to prosecute this Adversary Proceeding. Nor has he attempted to meet and confer with the Liquidating Trust or otherwise comply with the mandatory provisions of the Supplemental AP Procedures enacted by this Court. Accordingly, the Liquidating Trust moves to dismiss this Adversary Proceeding pursuant to paragraph 4 of the Supplemental AP Procedures.²

² As provided under paragraph 4 of the Supplemental AP Procedures, the Trust reserves its right to seek dismissal of the Adversary Proceeding on all other grounds if this Motion is not granted.

13. Paragraph 4 of the Supplemental AP Procedures provides that the Debtors may move before the Bankruptcy Court “for an order dismissing the AP Action for failure to prosecute and comply with the Supplemental AP Procedures.” Supplemental AP Procedures, ¶ 4. Plaintiff has neither complied with the Supplemental AP Procedures nor has he given any indication to the Liquidating Trust or this Court that he intends to prosecute this Adversary Proceeding.

14. The Supplemental AP Procedures require that Plaintiff provide the Debtors with his contact information, participate in an initial conference with the Debtors, and meet and confer in good faith. Supplemental AP Procedures, ¶¶ 1, 4. The Supplemental AP Procedures also require that Plaintiff collaborate with the Debtors to submit a Joint Progress Report to the Court that documents the extent of progress and status of the case. Id. Plaintiff failed to comply with each of these requirements.

15. As discussed above, in February 2014, the Notice of Supplemental AP Procedures was served on Plaintiff—he failed to comply with the procedures by not providing the Debtors with his contact information. In March and April, 2014, the Liquidating Trust’s counsel also attempted to make contact with Plaintiff three times—sending letters on March 25, April 1, and April 15. Plaintiff never responded. Finally, on April 28, 2014, the Liquidating Trust filed a Progress Report and served a copy on Plaintiff.³ One month later, the Trust informed the Court on the record that it intended to file a motion to dismiss. Since the May 2014 status conference, counsel to the Liquidating Trust is not aware of any effort on the part of Plaintiff to contact counsel.

³ Plaintiff never responded to the Trust and never bothered to file a progress report of his own.

16. In light of Plaintiff's repeated failure to comply with the Court-ordered Supplemental AP Procedures and prosecute this Adversary Proceeding, the Liquidating Trust hereby moves for dismissal of this Adversary Proceeding.

IV. CONCLUSION

Accordingly, for the reasons set forth herein, the Liquidating Trust respectfully requests that the Court dismiss the Adversary Proceeding with prejudice and grant such other and further relief as it deems just and proper.

Dated: March 13, 2015
New York, New York

/s/ Norman S. Rosenbaum
Norman S. Rosenbaum
Jordan A. Wishnew
Erica J. Richards
MORRISON & FOERSTER LLP
250 West 55th Street
New York, New York 10019
Telephone: (212) 468-8000
Facsimile: (212) 468-7900

Counsel for the ResCap Liquidating Trust

Exhibit 1

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

-----X	:	
Charles C. Heyward,	:	
	:	Adv. Proc. 14-01778 (MG)
Plaintiff,	:	
	:	
v.	:	
	:	
GMAC Mortgage, LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	
-----X	:	
In re	:	
	:	Case No. 12-12020 (MG)
RESIDENTIAL CAPITAL, LLC, <i>et al.</i> ,	:	
	:	Chapter 11
	:	
Debtors.	:	Jointly Administered
-----X	:	

ORDER DISMISSING ADVERSARY PROCEEDING

Upon consideration of the complaint (the “Complaint”) filed by *pro se* plaintiff Charles C. Heyward (“Plaintiff”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) against GMAC Mortgage, LLC, et al. (collectively, the “Defendants”), and upon consideration of the *ResCap Liquidating Trust’s Motion to Dismiss Plaintiff’s Adversary Complaint* (the “Motion”) and the declaration of Jordan A. Wishnew submitted in support thereof; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and the Court having held a hearing (the “Hearing”) on the Motion on

March 31, 2015; and upon consideration of the arguments presented in support of the Motion at the Hearing; and after due deliberation; it is hereby

ORDERED ADJUDGED, AND DECREED THAT:

1. For the reasons stated on the record at the Hearing, the Motion is **GRANTED** as provided in this Order.

2. The Complaint is dismissed in its entirety with prejudice with respect to all Defendants for Plaintiff's failure to comply with the mandatory provisions of the Supplemental AP Procedures, as defined in, and made applicable to, the Adversary Proceeding under the *Order Approving Debtors' Motion Pursuant To 11 U.S.C. §§ 105(a) And (d), Bankruptcy Rules 1015(c), 2002(m), 7016, And 9007 And Local Bankruptcy Rule 2002-2 For Entry Of An Order Approving (A) Supplement To Case Management Order Establishing Mandatory Procedures For Management Of Adversary Proceedings Commenced By Borrowers And Former Borrowers And (B) Related Relief* [Docket No. 3293], as amended on April 22, 2013. [Docket No. 3490].

3. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

Dated: _____, 2015
New York, New York

THE HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE

Exhibit 2

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

-----X	:	
Charles C. Heyward,	:	
	:	
Plaintiff,	:	Adv. Proc. 14-01778 (MG)
	:	
v.	:	
	:	
GMAC Mortgage, LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	
-----X	X	
In re	:	
	:	Case No. 12-12020 (MG)
RESIDENTIAL CAPITAL, LLC, <i>et al.</i> ,	:	
	:	Chapter 11
	:	
Debtors.	:	Jointly Administered
-----X	X	

**DECLARATION OF JORDAN A. WISHNEW IN SUPPORT OF
THE RESCAP LIQUIDATING TRUST'S MOTION TO DISMISS PLAINTIFF'S
ADVERSARY COMPLAINT**

I, JORDAN A. WISHNEW, hereby declare as follows:

1. I am an attorney duly licensed to practice law in the State of New York, and am an of counsel with the law firm of Morrison & Foerster LLP (“M&F”). By this Court’s Order entered on July 16, 2012, M&F was retained as counsel to the Debtors,¹ and subsequent to the effectiveness of the confirmed Plan, M&F has been engaged by the Liquidating Trust. I submit this declaration in support of the *ResCap Liquidating Trust’s Motion to Dismiss Plaintiff’s Adversary Complaint* (the “Motion”). 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.

2. The Supplemental AP Procedures required that Plaintiff Charles C. Heyward (“Plaintiff”) provide the Liquidating Trust’s counsel with contact information by February 26, 2014. See Notice of Applicability of AP Procedures Order [AP Docket 8]. To my knowledge, the Plaintiff never provided this information to M&F.

3. On March 25, 2014, M&F attempted to contact Plaintiff to schedule an initial conference, by sending a letter to Plaintiff via overnight mail directed to the address listed by Plaintiff in the Complaint. M&F sent additional letters to Plaintiff on April 1, 2014 and April 15, 2014. Attached hereto as **Exhibit A**, are true and correct copies of the letters sent by M&F to Plaintiff. To my knowledge, Plaintiff never responded to any of these letters.

4. On April 28, 2014, the Liquidating Trust filed a Progress Report [AP Docket 12] with this Court, as required by the Supplemental AP Procedures. Plaintiff never contacted me, or to my knowledge any other of the Liquidating Trust’s counsel after the Liquidating Trust filed the Progress Report.

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to such terms as set forth in the Motion.

5. On May 29, 2014, at a status conference for the Adversary Proceeding (the “Status Conference”), the Court authorized the Liquidating Trust to file a motion to dismiss the Advisory Proceeding. See May 29 Transcript at pp. 47-48, attached hereto as **Exhibit B**. To my knowledge, Plaintiff has not contacted M&F since the Status Conference.

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 13th day of March, 2015, at New York, New York.

/s/ Jordan A. Wishnew

Jordan A. Wishnew

Exhibit A

MORRISON | FOERSTER

1290 AVENUE OF THE AMERICAS
NEW YORK, NY 10104-0050

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MORRISON & FOERSTER LLP

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BEIJING, SHANGHAI, HONG KONG,
SINGAPORE

March 25, 2014

Writer's Direct Contact

+1 (212) 336.4130

JRosenberg@mofo.com

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

Re: Heyward v. GMACM, et al., Case No. 14-01778

Dear Mr. Heyward:

I write in regard to the above referenced adversary proceeding that you filed against GMAC Mortgage, LLC in the United States Bankruptcy Court, Southern District of New York. My firm Morrison & Foerster LLP is counsel to GMAC Mortgage, LLC. Pursuant to the Court's Supplemental Adversary Procedures, we are required to schedule an initial conference with you, to discuss the claims and causes of action set forth in your adversary complaint.

We propose holding this initial conference via telephone during one of the following times: April 1 at 11:00 A.M., April 2 at 11:00 A.M., or April 2 at 4:00 P.M. Please call or email me as soon as possible to let me know if one of these times works for you, and if not we can discuss a mutually convenient alternative.

Sincerely,



Jeffrey K. Rosenberg

MORRISON | FOERSTER

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April 1, 2014

Writer's Direct Contact

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

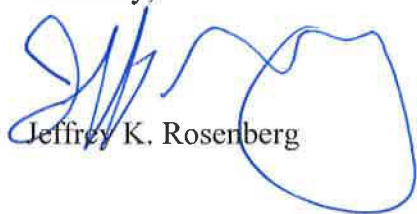
Re: Heyward v. GMACM, et al., Case No. 14-01778

Dear Mr. Heyward:

I write to follow up on my March 25, 2014 letter regarding the above referenced adversary proceeding that you filed against GMAC Mortgage, LLC in the United States Bankruptcy Court, Southern District of New York. My firm Morrison & Foerster LLP is counsel to GMAC Mortgage, LLC. As I mentioned in my March 25 letter, the Court's Supplemental Adversary Procedures requires that we schedule an initial conference with you, to discuss the claims and causes of action set forth in your adversary complaint.

Please call or email me as soon as possible so that we can schedule a mutually agreeable time to hold the initial conference.

Sincerely,



Jeffrey K. Rosenberg

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April 15, 2014

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Upper Marlboro, MD 20772

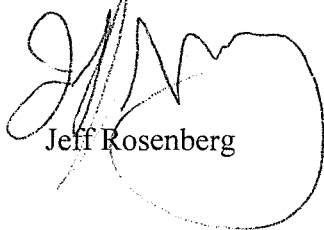
Re: Heyward v. GMACM, et al., Case No. 14-01778

Dear Mr. Heyward:

I write to follow up on my March 25, 2014 and April 1, 2014 letters regarding the above referenced adversary proceeding that you filed against GMAC Mortgage, LLC in the United States Bankruptcy Court, Southern District of New York. My firm Morrison & Foerster LLP is counsel to the ResCap Liquidating Trust, on behalf of GMAC Mortgage, LLC. As I mentioned in my previous letters, the Court's Supplemental Adversary Procedures requires that we schedule an initial conference with you, to discuss the claims and causes of action set forth in your adversary complaint. The parties are also required to submit a joint status report. Since we have not heard from you, we intend to submit our own status report and also will request that the court schedule a status conference for either May 15 or May 29.

Please call or email me as soon as possible so that we can discuss.

Sincerely,



Jeff Rosenberg

Exhibit B

In Re:
RESIDENTIAL CAPITAL, LLC, et al.
Case No. 12-12020-mg

May 29, 2014

eScribers, LLC
(973) 406-2250
operations@escribers.net
www.escribers.net

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1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 - - - - -x

4 In the Matters of:

5 RESIDENTIAL CAPITAL, LLC, et al., Case No. 12-12020-mg

6 Debtors.

7 - - - - -x

8 GMAC MORTGAGE, LLC, Case No. 12-12032-mg

9 Debtor.

10 - - - - -x

11 HEYWARD,

12 Plaintiff,

13 - against Adv. Proc. 14-017784-mg

14 GMAC MORTGAGE, et al.,

15 Defendants.

16 - - - - -x

17 United States Bankruptcy Court

18 One Bowling Green

19 New York, New York

20 May 29, 2014

21 10:02 AM

22

23 B E F O R E:

24 HON. MARTIN GLENN

25 U.S. BANKRUPTCY JUDGE

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(CC: Doc# 5161) Adj. Hrg. RE: Motion for Omnibus Objection to
Claim(s) / Debtors' Forty-Ninth Omnibus Objection to Claims (No
Liability Borrower Claims - Books and Records)
Going Forward solely as to the claim filed by Mary R.
Biancavilla (Claim No. 4397).

(CC: Doc# 6777) Motion for Omnibus Objection to Claim(s) / The
ResCap Borrower Claims Trust's Sixty-First Omnibus Objection to
Claims (No Liability Borrower Claims).

Adversary proceeding: 14-01778
(CC: Doc no. 1) Status Conference

Transcribed by: Penina Wolicki
eScribers, LLC
700 West 192nd Street, Suite #607
New York, NY 10040
(973)406-2250
operations@escribers.net

1 party here. I don't care how we cut it but --

2 THE COURT: Mr. Larkins, I'm not giving any legal
3 advice. I just tell you when you stop paying your mortgage for
4 five years, somebody's going to catch up with you at some
5 point. You may have a defense but --

6 MR. LARKINS: Exactly.

7 THE COURT: -- you -- but somebody else will decide
8 that, not me.

9 MR. LARKINS: Correct. I agree.

10 THE COURT: Okay. All right. Thank you very much,
11 Mr. Larkins.

12 MR. LARKINS: Thank you.

13 THE COURT: All right. Mr. Wishnew, anything else for
14 today?

15 MR. WISHNEW: Yes. Two things, Your Honor.

16 One, can I -- can the Borrower Claims Trust submit a
17 form of order on the sixty-first omnibus objection except as to
18 the two matters?

19 THE COURT: Yes, you can.

20 MR. WISHNEW: Okay.

21 THE COURT: The sixty-first omnibus is sustained as to
22 their remaining claims.

23 MR. WISHNEW: Excellent. Thank you, Your Honor.

24 THE COURT: Okay.

25 MR. WISHNEW: Last matter on today's agenda is a --

1 under III, adversary proceedings, a status conference for the
2 Heyward --

3 THE COURT: Yes.

4 MR. WISHNEW: -- v. GMAC Mortgage adversary
5 proceeding.

6 Your Honor, this was adversary -- post-petition
7 adversary proceeding. Consistent with the supplemental
8 procedures that this Court has previously approved, there was
9 an effort by GMAC Mortgage to confer with Mr. Heyward.

10 On three separate occasions, we sent letters to him
11 trying to have an initial conference. Those letters were sent
12 by overnight mail on March 25th, April 1st and April 15th.
13 We've never received a response to him from that. We also
14 submitted a progress report on April 28th highlighting what has
15 transpired since the commencement of this action.

16 At this point, and over the past four weeks,
17 nothing -- there really is nothing more, no further
18 developments.

19 Consistent with -- and while admittedly, we did not
20 send a copy to Mr. Heyward of the notice of a status conference
21 today, what we would like to do, given the absence of any
22 communication from him, is to confirm with the Court whether
23 they'd be comfortable for us to submit a motion to dismiss at
24 this point to try to bring this matter to a conclusion.

25 THE COURT: Absolutely. Go ahead and file a motion to

1 dismiss.

2 MR. WISHNEW: Okay. We will do that, Your Honor.

3 THE COURT: And properly serve it, and we'll deal with
4 it accordingly.

5 MR. WISHNEW: Thank you.

6 THE COURT: Okay.

7 MR. WISHNEW: So that brings us to the end of today's
8 calendar and we thank the Court for its time.

9 THE COURT: Thank you very much.

10 (Whereupon these proceedings were concluded at 11:06 AM)

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