

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

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In re:)	Case No. 12-12020 (MG)
)	
RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,)	Chapter 11
)	
Debtors.)	Jointly Administered
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Shelley von Brincken,)	Adv. Case No. 13-01436 (MG)
)	
Plaintiff,)	
)	
v.)	
)	
GMAC Mortgage, LLC, or assignee,)	
ETS Services, LLC, Ocwen Loan)	
Servicing, LLC, and Does 1-20,)	
)	
Defendants.)	
-----)	

Joint Stipulation and Scheduling Order

WHEREAS, on or about August 27, 2012, Shelley von Brincken (“Plaintiff”) filed a proof of claim against GMAC Mortgage, LLC (“GMAC Mortgage”) designated as Claim No. 441 (the “Proof of Claim”) in GMAC Mortgage’s claims register, asserting a secured claim in the amount of \$186,940.72 in connection with Plaintiff’s mortgage loan with respect to property located at 14738 Wolf Road, Grass Valley, California 95949 (the “Loan”), which was formerly serviced by GMAC Mortgage; and

WHEREAS, on August 26, 2013, Plaintiff filed an adversary proceeding complaint in this Court commencing the above-captioned adversary proceeding (the “Adversary Proceeding”), which asserts, *inter alia*, causes of action arising out of GMAC Mortgage’s servicing of the Loan; and



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WHEREAS, on March 3, 2014, Plaintiff filed an amended adversary proceeding complaint [Docket No. 15] (the “Amended Complaint”); and

WHEREAS, the ResCap Liquidating Trust and the ResCap Borrower Claims Trust (together, the “Trusts”), each as a successor in interest to GMAC Mortgage and ETS Services, LLC, defendants in the Adversary Proceeding, and Plaintiff, engaged in discussions regarding a potential resolution of the Adversary Proceeding and Proof of Claim and have been unable to reach a resolution at this time; and

WHEREAS, the ResCap Liquidating Trust and Ocwen Loan Servicing, LLC (“Ocwen” and together with the Trusts, and Plaintiff, the “Parties”), also a defendant in the Adversary Proceeding, intend to file motions to dismiss the Amended Complaint (the “Motions to Dismiss”); and

WHEREAS, at the status conference held on April 24, 2014, the Court directed the Parties to coordinate regarding the preparation of a proposed joint scheduling stipulation and order (the “Stipulation and Order”) with respect to the Motion to Dismiss; and

WHEREAS, the ResCap Borrower Claims Trust, as successor in interest to GMAC Mortgage, LLC, intends to file an objection to the Proof of Claim (the “Claim Objection”); and

WHEREAS, the Proof of Claim and Adversary Proceeding involve substantially similar factual issues, claims, and causes of action with respect to GMAC Mortgage; and

WHEREAS, the Parties have conferred and each desire to resolve the Adversary Proceeding and Proof of Claim in a single, consolidated proceeding for purposes of judicial efficiency;

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into this Stipulation and Order, and the covenants and conditions contained therein, IT IS STIPULATED AND AGREED by and between the Parties as follows:

1. The Motions to Dismiss and Claim Objection will be heard jointly and resolved through a single, consolidated proceeding.
2. Plaintiff agrees that the Adversary Proceeding shall be the sole proceeding in which to resolve any and all claims Plaintiff may have arising in connection with any and all of the transactions at issue in the Proof of Claim and that the Proof of Claim shall be limited to the amount of any final judgment obtained in the Adversary Proceeding.
3. The Trusts may (but are not required to) file a single joint pleading (the “Combined Claim Objection/Motion to Dismiss”) consolidating the ResCap Liquidating Trust’s Motion to Dismiss and the ResCap Borrower Claims Trust’s Claim Objection.
4. (a) Ocwen must file and serve its Motion to Dismiss, and (b) the Trusts must file and serve their Motion to Dismiss and Claim Objection or the Combined Claim Objection/Motion to Dismiss, as applicable, by **January 25, 2016**.
5. Plaintiff must file and serve any objection to the Motions to Dismiss and response to the Claim Objection by **February 24, 2016**.
6. (a) Ocwen must file and serve any reply in further support of its Motion to Dismiss and (b) the Trusts must file and serve any reply in further support their Motion to Dismiss and Claim Objection or the Combined Claim Objection/Motion to Dismiss, as applicable, by **March 15, 2016 at 12:00 p.m. (Eastern Time)**.
7. A hearing on the Motions to Dismiss and Claims Objection (the “Hearing”) will take place on **March 22, 2016 at 10:00 a.m. (Eastern Time)** before the Honorable Martin

Glenn, at the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408, Room 501.

8. Plaintiff is authorized to attend the Hearing telephonically.

9. This Stipulation and Order may not be altered, modified or changed unless in writing signed by the Parties.

10. Each person who executes this Stipulation and Order on behalf of a Party hereto represents that he or she is duly authorized to execute this Stipulation and Order on behalf of such Party.

11. This Stipulation and Order may be executed in counterparts, each of which is deemed an original, but when taken together constitute one and the same document.

12. This Stipulation and Consent Order shall be of no force or effect unless and until it is approved by the Court.

13. This Court shall retain jurisdiction to hear all matters or disputes arising from or related to this Stipulation and Order.

[Remainder of page intentionally left blank]

The ResCap Liquidating Trust and
The ResCap Borrower Claims Trust

Shelley von Brincken, *pro se*

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Defendants, and the ResCap Borrower Claims
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IT IS SO ORDERED.

Dated: January 21, 2016
New York, New York

/s/Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge