

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT NEW YORK

In re:
RESIDENTIAL CAPITAL, LLC, et al.
Debtors

Case No. 12-12020 (MG)
Administratively Consolidated

RICHARD D. RODE, et al.
individually, and as proposed Representative
Plaintiffs for the Class of Similarly Situated
Homeowners,
Plaintiffs
v.

Adv. No. 16-01015

RESCAP BORROWER CLAIMS TRUST, a Delaware Statutory Trust, et al.
Defendants

NOTICE OF DISMISSAL PURSUANT TO FED. R. BANKR. P. 7041 INCORPORATING
FED. R. CIV. P. 41(a)(1)(A)(i)

NOW COME Richard D. Rode and Tia Danielle Smith (Plaintiffs), individually and as proposed Representative Class Plaintiffs for the Class of Similarly Situated Homeowners, by their attorney, Wendy Alison Nora of ACCESS LEGAL SERVICES, appearing pro hac vice before this Court, and respectfully move to dismiss their Adversary Complaint in the above-captioned matter pursuant to Fed. R. Bankr. P. 7041, incorporating Fed. R. Civ. P. 41(a)(1)(A)(i) solely and exclusively because their attorney has been unjustly threatened with sanctions (see Doc. 9) for seeking equitable relief from forged documents created by the RESCAP Debtors in order to make it appear that their non-debtor successors interest have lawful interests in Collateral Documents purporting to represent debt and security for repayment of debt throughout the nation. This is the fourth time that Judge Martin Glenn has verbally threatened Attorney



Wendy Alison Nora with the revocation of her pro hac vice admission to this Court since October 9, 2013 [when she was verbally threatened three (3) times on the record of the proceedings had that date] and Attorney Nora was served with an Order to Show Cause (Doc. 5330), which she believed in good faith had been resolved by an understanding that she would file separate pro hac vice applications for each individual Homeowner she sought to represent. There is no requirement that she file a separate pro hac vice application to represent those same clients in an Adversary Proceeding filed under the main case for which she was admitted pro hac vice.

Plaintiffs do not wish to have their attorney's pro hac vice admission threatened with revocation any further in the course of their representation by Attorney Nora. Plaintiffs had the option of filing their Complaint in the United States District Court for the District of Minnesota, where Attorney Nora is admitted to practice, where they would be entitled to a jury trial for their damages claims, and would be able to join non-debtor parties therein because both Mr. Rode and Ms. Smith are victims of the forged endorsements on their Notes by the signature stamp of Judy Faber, which occurred in the State of Minnesota and because the RESCAP Liquidating Trust has offices in and is doing business in the State of Minnesota. The RESCAP Debtors marketed securities issued in the name of the RALI Series 2003-QS12 and RALI Series 2007-QO1 Trust from the State of Minnesota and reported the existence of 145 RALI Series Trusts in the State of Minnesota to the Securities and Exchange Commission (SEC) over the course of time from 2003 to 2008. None of the RALI Trusts were ever registered with the Secretary of State for the State of Minnesota as required by Minn. Stat. Chapter 318, effective April 20, 1961.

Plaintiffs filed their complaint as an Adversary Complaint as a courtesy to this Court and

some of the named parties therein, but they were not required to do so. Indeed, were they to obtain full and complete relief, including their right to a jury trial to all issues triable to a jury at common law as well as relief as to all parties identified as being allegedly liable for their damages and against whom equitable relief must be sought, they would have likely had to seek to withdraw the reference to this Court in order to proceed before the United States District Court for the Southern District of New York, requiring Attorney Nora to seek pro hac vice admission before that Court. Attorney Nora's expenses of litigating Plaintiffs' case in the Southern District of New York would be substantially greater than they will be to litigate the case in the District of Minnesota, where Attorney Nora's main office is located. Therefore, they dismiss the Adversary Proceeding in order to re-file their full action against all parties alleged to be liable for their damages and against whom they seek equitable relief pertaining to the issues raised in the Adversary Complaint and related thereto in the District of Minnesota as soon as Attorney Nora has the time to commence the new action. By permissive joinder of claims, Mr. Rode may exclude certain of the claims he may bring to trial in the State of Texas, but Ms. Smith will likely join her claim for equitable relief from the fraudulently procured judgment in the State of California, to the extent that the United States District Court for the District of Minnesota is competent to proceed thereon.

WHEREFORE, the foregoing action is dismissed pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) so that the Plaintiffs may proceed in the United States District Court for the District for all relief they choose to seek by permissive joinder of claims therein in order to obtain the procedural due process guaranteed by the Fifth Amendment to *the United States Constitution* (including their choice of counsel) and their rights to a trial by jury as to all issues

triable to a jury at common law, guaranteed by the Seventh Amendment to *the United States Constitution*.

Dated at Minneapolis, Minnesota this 15th day of March, 2016.

/s/ Wendy Alison Nora

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DECLARATION OF SERVICE

Wendy Alison Nora declares under penalty of perjury pursuant to 11 U.S.C. sec. 1746, that she filed the above-captioned Notice of Dismissal via CM/ECF and thereby served all parties and their counsel capable of service thereby.

Dated at Minneapolis, Minnesota the 15th day of March, 2016.

/s/ Wendy Alison Nora

Wendy Alison Nora