

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

RESIDENTIAL CAPITAL, LLC, et al.,

Debtors.

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Gwendolyn B. Hawthorne

Plaintiff,

v.

GMAC Mortgage, LLC, U.S. Bank National  
Association, GMFS LLC, Judy Faber, Vice  
President, Brenda Guidry, and Mortgage  
Electronic Registration System Inc., and  
Duane Thompson, Assistant Secretary  
Mortgage Electronic Registration System Inc,  
as Nominee for GMFS, LLC, Residential  
Funding Corporation

Defendants.  
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Case No. 12-12020 (MG)

Chapter 11  
(Jointly Administered)

Adv. No. 12-02050 (MG)

**RELATED DOC. NO. 44**

**CERTIFICATE OF NO OBJECTION REGARDING MOTION OF DEFENDANTS  
MORTGAGE ELECTRONIC REGISTRATION SYSTEM, INC., DUANE THOMPSON,  
JUDY FABER, AND U.S. BANK NATIONAL ASSOCIATION TO DISMISS  
PLAINTIFF'S COMPLAINT TO DETERMINE NATURE AND EXTENT OF LIENS  
PURSUANT TO 11 U.S.C. 506(A) FOR FAILURE TO STATE A CLAIM UPON WHICH  
RELIEF CAN BE GRANTED, LACK OF PERSONAL JURISDICTION, AND  
INSUFFICIENT SERVICE OF PROCESS AND LIMITED JOINDER OF POINTS AND  
AUTHORITIES IN SUPPORT OF DISMISSAL FROM JOINT MOTION OF THE  
RESCAP LIQUIDATING TRUST AND THE RESCAP BORROWER CLAIMS TRUST  
FOR (I) DISMISSAL OF ADVERSARY PROCEEDING PURSUANT TO  
BANKRUPTCY RULE 7012(b) AND FRCP 12(b)(6), AND (II) DISALLOWANCE OF  
PROOFS OF CLAIM NOS. 6273 AND 6274 FILED BY PLAINTIFF**

1. The undersigned hereby certifies that, as of the date hereof, she is not aware of any answer, objection or other responsive pleading submitted by Plaintiff to the relief sought in the following motion, filed by Defendants Mortgage Electronic Registration System, Inc. ("MERS"), Duane Thompson ("Thompson"), Judy Faber ("Faber"), and U.S. Bank National



Association (“U.S. Bank” and collectively with MERS, Thompson and Faber, the “Moving Defendants”) on November 2, 2016 (the “Motion to Dismiss”):

*Motion to Dismiss Adversary Proceeding by Defendants Mortgage Electronic Registration System, Inc., Duane Thompson, Judy Faber, and U.S. Bank National Association for failure to state a claim upon which relief can be granted, lack of personal jurisdiction, and insufficient service of process, and, Motion to Join /Limited Joinder of Points and Authorities in Support of Dismissal from Joint Motion of the Rescap Liquidating Trust and the Rescap Borrower Claims Trust for (i) Dismissal of Adversary Proceeding pursuant to Bankruptcy Rule 7012(b) and FRCP 12(b)(6), and (ii) Disallowance of Proofs of Claim Nos. 6273 and 6274 [Docket No. 44].<sup>1</sup>*

2. The undersigned further declares that she has caused a review of the Court’s docket in this case and has not been advised that any other answer, objection or other responsive pleading to the Motion to Dismiss appears thereon. The deadline for filing responses to the Motion to Dismiss, November 10, 2016, has passed.

3. In accordance with the *Order Under Bankruptcy Code Sections 102(1), 105(a) and 105(d), Bankruptcy Rules 1015(c), 2002(m) and 9007 and Local Bankruptcy Rule 2002-2 Establishing Certain Notice, Case Management and Administrative Procedures* entered on May 23, 2012 (Bankr. S.D.N.Y. 12-12020 (MG)) [Docket No. 151] (the “Case Management Procedures”), the Parties submit this Certificate of No Objection pursuant to 28 U.S.C. § 1746.

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<sup>1</sup> The Moving Defendants joined and fully incorporated in the Motion to Dismiss the arguments, points and authorities made by the Rescap Liquidating Trust and the Rescap Borrower Claims Trust in their *Joint Motion* to dismiss the Complaint, filed on September 30, 2016 (the “Rescap Motion to Dismiss”):

*Joint Motion of the ResCap Liquidating Trust and the ResCap Borrower Claims Trust for (I) Dismissal of Adversary Proceeding Pursuant to Bankruptcy Rule 7012(b) and FRCP 12(b)(6), and (II) Disallowance of Proofs of Claim Nos. 6273 and 6274 Filed by Plaintiff [Docket No. 40].*

The undersigned further certifies that, as of the date hereof, she is not aware of any answer, objection or other responsive pleading submitted by Plaintiff to the relief sought in the Rescap Motion to Dismiss.

4. Accordingly, for the reasons set forth in the Motion to Dismiss, the Parties respectfully request that the proposed order granting the Motion to Dismiss, annexed hereto as Exhibit 1, be entered in accordance with the procedures set forth in the Case Management Procedures.

The undersigned declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
November 15, 2016

TROUTMAN SANDERS LLP

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-and-

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*Counsel for Defendants Mortgage Electronic  
Registration System, Inc., Duane Thompson, Judy  
Faber, and U.S. Bank National Association*

**EXHIBIT 1**

**PROPOSED ORDER**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

RESIDENTIAL CAPITAL, LLC, et al.,

Debtors.

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Gwendolyn B. Hawthorne

Plaintiff,

v.

GMAC Mortgage, LLC, U.S. Bank National  
Association, GMFS LLC, Judy Faber, Vice  
President, Brenda Guidry, and Mortgage  
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Duane Thompson, Assistant Secretary  
Mortgage Electronic Registration System Inc,  
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Defendants.  
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Case No. 12-12020 (MG)

Chapter 11  
(Jointly Administered)

Adv. No. 12-02050 (MG)

**ORDER DISMISSING ADVERSARY PROCEEDING  
PURSUANT TO BANKRUPTCY RULE 7012(b)  
AND FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6)**

Upon consideration of the complaint (the “Complaint”) filed by *pro se* plaintiff Gwendolyn B. Hawthorne in the above-captioned adversary proceeding (the “Adversary Proceeding”); and upon consideration of the *Motion to Dismiss Adversary Proceeding by Defendants Mortgage Electronic Registration System, Inc., Duane Thompson, Judy Faber, and U.S. Bank National Association for failure to state a claim upon which relief can be granted, lack of personal jurisdiction, and insufficient service of process, and, Motion to Join /Limited Joinder of Points and Authorities in Support of Dismissal from Joint Motion of the Rescap Liquidating Trust and the Rescap Borrower Claims Trust for (i) Dismissal of Adversary Proceeding pursuant to Bankruptcy Rule 7012(b) and FRCP 12(b)(6), and (ii) Disallowance of*

*Proofs of Claim Nos. 6273 and 6274* (ECF Doc. # 44) (the “Motion”); 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 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 with prejudice in its entirety with respect to Defendants Mortgage Electronic Registration System, Inc., Duane Thompson, Judy Faber, and U.S. Bank National Association pursuant to Federal Rule of Civil Procedure 12(b)(2), 12(b)(5), and 12(b)(6), as made applicable to the Adversary Proceeding by Bankruptcy Rule 7012(b).

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

Dated: New York, New York  
November \_\_, 2016

**PROPOSED**

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THE HONORABLE MARTIN GLENN  
UNITED STATES BANKRUPTCY JUDGE