

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

In re:

RESIDENTIAL CAPITAL, LLC, *et al.*,

Debtors.

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 Systems Inc, as Nominee for GMFS, LLC, Residential Funding Corporation,

Defendants.

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 *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 Numbers 6273 and 6274 Filed by Plaintiff* (ECF Doc. # 40) (the “Trust Motion”); and upon



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consideration of the *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* [Docket No. 44] (the “Non-Debtor Motion” and with the Trust Motion, the “Motions”); and it appearing that this Court has jurisdiction to consider the Motions 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 Motions has been given and that no other or further notice is necessary; and for the reasons stated on the record at the hearing held on November 17, 2016 to consider the Motions; it is hereby

**ORDERED, ADJUDGED, AND DECREED THAT:**

1. For the reasons stated on the record at the Hearing, the Motions are **GRANTED** as provided in this Order.
2. The Complaint is dismissed with prejudice in its entirety pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief may be granted, 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.

**IT IS SO ORDERED.**

Dated: December 2, 2016  
New York, New York

/s/ Martin Glenn  
MARTIN GLENN  
United States Bankruptcy Judge