Docket #0001 Date Filed: 3/18/2016

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

IN REF:

GMAC MORTGAGE LLC

Debtor,

Adv, Case No.:

Case No.: 12-12032

CHARLES C. HEYWARD LIVING TRUST

14120 BISHOP CLAGGETT CT

UPPER MARLBORO MARYLAND 20772

vs. PLAINTIFF

GMAC MORTGAGE LLC,

7 CENTURY DRIVE

PARSIPPANY, NJ 07054

AND

OCWEN LOAN SERVICING, LLC

1661 WORTHINGTON ROAD

WEST PALM BEACH FL, 33409

AND

ALLY FINANCIAL, INC

AND

HOMECOMINGS FINANCIAL, LLC

P.O. BOX 205

PLAINTIFF'S COMPLAINT FOR AN INJUNCTION TO PREVENT FURTHER ACTS, UNTIL THE VALIDITY OF THE NOTE CAN BE DETERMINED AND TO DETERMINE NATURE, EXTENT AND VALIDITY OF LIEN AND DEBT AS VOID

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WATERLOO, IA 50704

AND

AMERICAN RESIDENTIAL MORTGAGE

AND

MCCABE, WEISBER & CONWAY P.C.

312 MARSHALL AVE #800 LAUREL, MD

20707

AND

LAURA H.G. **O'SULLIVAN**, ERIN M. **BRADY**,

DIANA C.**THEOLOGOU**, LAURA L. LATTA,

JONATHAN **ELEFANT**, LAURA T. **CURRY**,

CHASITY **BROWN**, SUBSTITUTION OF

TRUSTEE 312 MARSHALL AVE #800 LAUREL,

MD 20707

AND

RESIDENTIAL FUNDING COMPANY, LLC FKA

RESIDENTIAL FUNDING CORPORATION

800 NORMANDALE BLVD STE 250

MINNEAPOLIS, MN 55437

AND

SAMUEL I. WHITE, P.C.

121 HUMBIRD ST

CUMBERLAND, MD 21502

AND

HARVEY WEST AUCTIONEERS

300 E. JOPPA ROAD

HAMPTON PLAZA-SUITE 1103

BALTIMORE, MD 21286

Defendant

Plaintiff CHARLES C. HEYWARD LIVING TRUST ("Heyward"), alleges:

JURISDICTION AND VENUE

1. Jurisdiction is conferred on this Court pursuant to the provisions of Section 1334 of Title 28 of the United States Code in that this proceeding arises in and is related to the above-captioned Chapter 13 case under Title 11.
2. The Court has both personal and subject matter jurisdiction to hear this case pursuant to § 1334 of Title 28 of the United States Code and § 157(b)(2) of Title 28 of the United States Code.
3. This Court has supplemental jurisdiction to hear all state law claims pursuant to § 1367 of Title 28 of the United States Code.
4. This matter is core proceeding and therefore the Bankruptcy Court has jurisdiction to enter a final order. However, in the event this case is determined to be a non-core proceeding then and in that event the Plaintiff consents to the entry of a final order by the Bankruptcy Judge.

PARTIES

5. The Plaintiff CHARLES HEYWARD LIVING TRUST is the owner of 14120 Bishop Claggett Court Upper Marlboro, Maryland 20772.

6. The Defendant GMCA Mortgage LLC is a Delaware Corporation doing business in the State of Maryland and registered as a foreign corporation, with principal place of business at 1100 Virginia Drive, Fort Washington, PA 19034, and is the debtors under Chapter 11 of the above-captioned case.

7. The Defendant Deutsche Bank Trust Company ("DBNTC") is a trust company. DBNTC is a subsidiary of DEUTSCHE BANK AG with a corporate headquarters in Frankfurt, Germany. DBNTC's corporate headquarters is located at 60 Wall Street, New York, New York.

8. The Defendant OCWEN LOAN SERVICING CORP is a Florida Corporation doing business in the State of Maryland with an corporate address as 1661 Worthington Road, West Palm Beach Florida 33409.

9. The Defendant Ally Financial Inc, is a Delaware Corporation doing business in the State of Maryland and their registered agent is CT Corporation System.

10. The Defendant MCCABE, WEISBERG & CONWAY, LLC, is an Law Firm based in Laurel Maryland.

11. On or about April 28, 2006, Charles C. Heyward, Jr., purchased the homestead commonly known as 14120 Bishop Claggett Court Upper Marlboro, Maryland 20772.

12. On or about April 28th 2006 Charles C. Heyward, executed a Purchase Money Deed of Trust in favor of Mortgage Electronic Registration Systems, Inc. (MERS) as beneficiary under the Security Instrument.

13. At the time the mortgage was signed, Charles C. Heyward was married and both he and his wife were residing on the property as their homestead.

14. Page 1 of the Purchase Money Deed of Trust lists the borrower as Charles C. Heyward, a Married Man

15. The Purchase Money Deed of Trust contains the signature of both Mr. Charles C. Heyward.

COUNT 1 – VIOLATION OF FAIR DEBT COLLECTION ACT AND STATUTE OF LIMITATION EXPIRED TO COLLECT DEBT

16. In order to convey an interest in a homestead, both spouses must join in the execution of the conveyance.

17. Mrs. Heyward's signature is not on the mortgage.

18. Mrs. Heyward did not join in the conveyance.

19. The mortgage of GMAC Mortgage, LLC is void.

20. Pursuant to the Federal Civil False Claims Act, 31 U.S.C. § 3729 (the "FCA") Plaintiff seeks to recover damages and civil penalties arising from the sale by Defendant and other forms of asset-backed securities, using funds provided by the United States ("U.S.") government.

21. Plaintiff has conducted his own investigations in furtherance of a False Claims Act qui tam action and found that the Defendants GMAC Mortgage, Samuel L. White, P.C., American Residential Mortgage, Substitution of Trustee, John E. Driscoll III, Robert E. Frazier, Jana M. Gantt, Laura D. Harris, Kimberly Lane and Deea L. Reynolds pursued and continued to pursue foreclosure actions using false and fabricated documents particularly mortgage assignments.

22. Plaintiff has conducted his own investigation in furtherance of a False Claims, Fraud, qui tam action and found that the Defendants GMAC Mortgage, MCCABE, WEISBERG & CONWAY, LLC, Laura h.G. O'Sullivan, Erin M. Brady, Diana C. Theologou, Laura L. Latta, jonathan Elefant, laura T. Curry and Chasiity Brown continued to pursue an Illegal foreclosure action using false and fabricated documents particularly mortgage assignment.

23. The Defendants used these fraudulent mortgage assignments to conceal that over 200 MBS Trusts, each with mortgages valued at over $1 billion, are missing critical

documents, namely the mortgage assignments there were required to have been delivered to the trusts at the inception of the trust.

24. Without lawfully executed mortgage assignments, the value of the mortgages and notes held by Deutsche Bank Trust Company Americas as trustee for RALI 2006-QS6 is impaired because effective assignments are necessary for the trust to foreclose on its assets in the event of mortgage defaults.

25. When Samueal L. White, P.C., Substitution of Trustee's John E. Dricoll, II, Robert E. Frazier, Jana M. GanTT, Laura D. Harris, Kimberly Lane, and Deena L. Reynolds discovered that the Plaintiff Mortgage assignments were missing, they devised and operated a scheme to replace the missing assignments with fraudulent, fabricated assignments. See Exhibit (C), (Corporate Assignment of Deed of Trust) dated October 17, 2012.

26. The purpose of the Defendants scheme was to meet the evidentiary requirements imposed by courts in foreclosure cases, and to conceal from trust shareholders the true, impaired value of the assets of each of the trusts, crippled by the missing assignments and related documents.

27. The fraud carried out the Defendants in this case includes, inter alia:

a. Mortgage assignments with forged signatures of the individuals signing on behalf of the grantors, and forged signatures of the witnesses and the notaries;

b. Mortgage assignment with signatures of individuals signing as corporate officers for Mortgage Electronic Registration Systems Inc that never employed them;

c. Plaintiff Mortgage assignments prepared and signed by individuals as corporate officers of mortgage companies that had been dissolved by bankruptcy years prior to the assignment;

d. Mortgage assignments prepared on behalf of grantors who had never themselves acquired ownership of the mortgages and notes by a valid transfer, including numerous such assignments were the grantor was identified as "Bogus Assignee for Intervening Assignments;" and

e. Mortgage assignments notarized by notaries who never witnessed the signatures that they notarized.

COUNT II

FEDERAL FALSE CLAIMS ACT, 31 U.S.C. 3729(A)(1)(b)

DEFENANTS'S ACTS VIOLATE THE FALSE CLAIMS ACT

28. Defendants created an illegal foreclosure case that are lacking lawful assignments of the notes and mortgage to the trusts, and then forged the missing assignments by having employees or agents of SAMUEL L. WHITE, P.C. and their Substitution of

Trustee on behalf of all the other Defendants, sign using false corporate officer titles, false dates of assignment, and forged signatures.

29. After examining the forged mortgage assignment in Exhibit "C" filed in Plaintiff's own foreclosure, including the signatures of John McLaughlin, Assistant Secretary Mortgage Electronic Registration System Inc, as nominee for American Residential Mortgage, Plaintiff located numerous other examples of assignments signed by those names.

WHEREFORE, the Plaintiff have set forth his claim for relief against the Defendant respectfully prays of the Court as follows:

a. Declare the Plaintiff Mortgage Void. Statute of limitation had expired to collect the alleged debt.

b. Defendants cease and desist from violating the False Claims Act 31 U.S.C. 3729.

c. Defendants pay an amount equal to three times the amount of damages Plaintiff have sustained because of Defendants illegal actions, plus a civil penalty against Defendants of not less than $10,000 for each violation of 21 U.S.C. 3729.

d. Plaintiff be granted all such other relief as the Court deems just and proper.

REQUEST FOR A TRIAL BY JURY.

CHARLES C. HEYWARD, PRO SE