Docket #0001 Date Filed: 9/1/2016

UNITED STATES BANKRUPTCY COURT FOR

THE SOUTHERN DISTRICT OF NEW YORK

IN REF: GMAC MORTGAGE LLC DEBTOR --- BEVERLIE A. ROSEBERRY, 3900 OLDFIELD CROSSING DRIVE APT 215 JACKSONVILLE, FL 32223 Plaintiff, vs. GMAC MORTGAGE, LLC AND OCWEN LOAN SERVICING LLC 15 PIEDMONT CENTER 3575 PIEDMONT ROAD, N.E. STE 500 ATLANTA, GA 30305 AND ALDRIDGE PITE, LLP a/k/a ALDRIDGE CONNORS, LLP 3575 PIEDMONT ROAD NW SUITE 500 ATLANTA, GA 30305 AND DEUTSCHE BANK NATIONAL TRUST COMPANY,	ADV. CASE NO. CASE NO. 12-12032 COMPLAINT TO DETERMINE LIENS AND N0N DISCHARGEABILITY OF DEBT AND REQUEST FOR STAY OF FORECLOSURE UNTIL THE VALIDITY OF THE NOTE CAN BE DETERMINED AND TO DETERMINE NATURE, EXTENT AND VALIDITY OF LIEN AND DEBT AS VOID PENDING OUTCOME OF LITIGATION

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SOLELY AS TRUSTEE FOR HARBOR VIEW)
)
MORTGAGE LOAN TRUST MORTGAGE LOAN)
)
PASS-THROUGH CERTIFICATES SERIES 2004)
)
AS AGENT AND ATTORNEY IN FACT FOR)
)
BEVERLIE ROASBERRY)
)
Defendant

Plaintiff Beverlie A. Roseberry, pro se hereby alleges:

JURISDICTION AND VENUE

1. This is an action under the Fair Debt Collection Practices Act, hereinafter "FDCPA," 15 U.S.C. 1692a, et seq., the FCEUA, 73 and for common law fraud, and failure to give Plaintiff a Loan Modification as promise.
2. 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.
3. 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.
4. This Court has supplemental jurisdiction to hear all state law claims pursuant to § 1367 of Title 28 of the United States Code.

5. 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

6. The Plaintiff Beverlie A. Roseberry and William G. Ryder is the owner of 1641 White Oak Cove Loganville, GA 30052.
7. 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.
8. 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.
9. 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.

10. The Defendant ALDRIDGE PITE, LLP aka ALDRIDGE CONNORS, LLP, is an Law Firm based in Atlanta, Georgia 30305.

FACTS COMMON TO ALL COUNTS

11. Plaintiff has requested for a Loan Modification and has continue to follow thru with each and every request for documents.

12. Defendant OCWEN LOAN SERVICING LLC, has continued to alleged that there are missing documents, or that Plaintiff modification is pending.

13. Plaintiff has requested that Defendants validate the alleged debt. Each Defendants have failed to respond to Plaintiff's request for verification.

COUNT 1 – VIOLATION OF FAIR DEBT COLLECTION ACT AND

STATUTE OF LIMITATION EXPIRED TO COLLECT DEBT

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

15. 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.

16. Plaintiff has conducted her own investigations in furtherance of a False Claims Act qui tam action and found that the Defendants GMAC Mortgage, Aldridge Pite, LLP, OCWEN Loan Servicing LLC and Deutsche Bank National Trust Company, solely as

Trustee for Harbor View Mortgage Loan Trust Mortgage Loan Pass-Through Certificates Series 2004 as alleged agent and Attorney in fact for Beverlie Roseberry pursued and continued to pursue foreclosure actions using false and fabricated documents particularly mortgage assignments..

17. 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.

18. 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.

19. The fraud carried out by these 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

20. Defendants created an illegal foreclosure case that are lacking lawful assignments of the notes and mortgage to the trusts..

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

a. Stay the pending Foreclosure Sale of September 06, 2016, pending further litigation of this case.

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

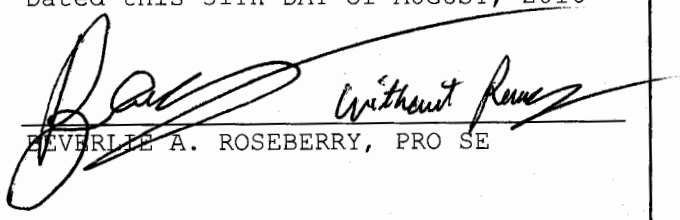
c.Defendants cease and desist from violating the False Claims Act 31 U.S.C. 3729.

d. 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.

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

REQUEST FOR A TRIAL BY JURY.

Dated this 31TH DAY of AUGUST, 2016



BEVERLIE A. ROSEBERRY, PRO SE

B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	**ADVERSARY PROCEEDING NUMBER** (Court Use Only)

PLAINTIFFS Beverlie Roseberry
3960 Old Field Crossing Drive 215
Jacksonville, FL 32223

DEFENDANTS GMAC Mortgage LLC

ATTORNEYS (Firm Name, Address, and Telephone No.)
Beverlie Rosenberry, 678 922 2885

ATTORNEYS (If Known) Lorenzo Marinuzzi
250 West 55th Street
New York, New York 10019

PARTY (Check One Box Only)
- ☐ Debtor
- ☐ U.S. Trustee/Bankruptcy Admin
- ☒ Creditor
- ☐ Other
- ☐ Trustee

PARTY (Check One Box Only)
- ☒ Debtor
- ☐ U.S. Trustee/Bankruptcy Admin
- ☐ Creditor
- ☐ Other
- ☐ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)
Violation of The Fair Debt Collection Act, Failure to Give Loan Modification, Fraud,

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property
- ☐ 11-Recovery of money/property - §542 turnover of property
- ☐ 12-Recovery of money/property - §547 preference
- ☐ 13-Recovery of money/property - §548 fraudulent transfer
- ☒ 14-Recovery of money/property - other

FRBP 7001(2) – Validity, Priority or Extent of Lien
- ☐ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(3) – Approval of Sale of Property
- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(4) – Objection/Revocation of Discharge
- ☐ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(5) – Revocation of Confirmation
- ☐ 51-Revocation of confirmation

FRBP 7001(6) – Dischargeability
- ☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(6) – Dischargeability (continued)
- ☐ 61-Dischargeability - §523(a)(5), domestic support
- ☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
- ☐ 63-Dischargeability - §523(a)(8), student loan
- ☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 65-Dischargeability - other

FRBP 7001(7) – Injunctive Relief
- ☐ 71-Injunctive relief – imposition of stay
- ☐ 72-Injunctive relief – other

FRBP 7001(8) Subordination of Claim or Interest
- ☐ 81-Subordination of claim or interest

FRBP 7001(9) Declaratory Judgment
- ☐ 91-Declaratory judgment

FRBP 7001(10) Determination of Removed Action
- ☐ 01-Determination of removed claim or cause

Other
- ☐ SS-SIPA Case – 15 U.S.C. §78aaa *et.seq.*
- ☐ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

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☒ Check if this case involves a substantive issue of state law	☐ Check if this is asserted to be a class action under FRCP 23
☒ Check if a jury trial is demanded in complaint	Demand $ 500,000

Other Relief Sought STAY ALL Foreclosure Action SET FOR SEP, 06 2016

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR GMAC Mortgage	BANKRUPTCY CASE NO. 12-12032-mg	
DISTRICT IN WHICH CASE IS PENDING Southern District of New York	DIVISION OFFICE	NAME OF JUDGE Martin Glenn
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE 22 Aug 2016	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Beverlie Roseberry	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and **Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.