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FILED Apr 01, 2013

APR - 1 2013

SUPERIOR COURT
CLERK'S OFFICE

DOCKET NOS. : F-48417-09 & F-025354-12 : SUPERIOR COURT OF NEW JERSEY

GMAC MORTGAGE, LLC : LAW DIVISION OF HUDSON COUNTY
PLAINTIFF

VS. : CHANCERY DIVISION- GENERAL EQUITY
HUDSON COUNTY

NICOLA SMITH : March 26, 2013

MOTION FOR RELIEF AND OBJECTION TO BRADLEY ARANT & BOULT CUMMINGS REQUEST

I, NICOLA SMITH, being the owner of the premises subject of the above referenced foreclosure, pursuant to the applicable provisions, and presents as follows:

That I am a homeowner, having owned and consistently occupying the subject property as my principal residence for continuous period of not less than two years immediately preceding the commencement of this foreclosure:

That I responded to adequately to the motion docket No F-48417-09 the corresponding response from the attorneys who represented the bank is enclosed as an evidence to put Attorney D. Brian O'Dell claim to be obsolete.

That I am also attaching the copy of the form A - answer to a foreclosure complain stamped at the Superior Court Clerk's Office on February 25, 2013 for Docket No F- 025354-12 accordingly

WHEREFORE, the applicant moves as follows.

The defendant prays that this court order all applicable rules that will disallow the attorney for the plaintiff from unnecessary interference with the on-going modification

That the Court grant the motion on the ground I have made a good faith effort to personally discuss the Matter with the bank

THE DEFENDANT

Nicola Smith
34 Yale Avenue
Jersey City, NJ 07304
973.493.2950

I hereby certify that a copy of the this was faxed on 26th day of
March, 2013 via fax number 205.488.6226

D Brian O'Dell
Bradley Arant & Boult Cummings LLP

 4/11/13
Nicola Smith -Pro se

ORAL ARGUMENT IS / IS NOT REQUESTED
TESTIMONY IS / IS NOT REQUESTED

ORDER

The foregoing motion having heard, it is ORDERED:
GRANTED/DENIED

BY THE COURT

Judge / Assistant Clerk

RECEIVED

FEB 25 2013

SUPERIOR COURT
CLERK'S OFFICE

Nicola Smith
(Your Name(s))
34 YALE AVE, JC, NJ 07304
(Your Mailing Address)
973 493 2950
(Your Daytime Telephone Number)

Defendant(s) *Pro Se*

NICOLA SMITH

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION - GENERAL EQUITY

HUDSON COUNTY
(County where the property is located)

Docket No F- 025354-12

(Name of company or bank that filed the foreclosure complaint)

GMAC Mortgage
Plaintiff(s),

vs.

NICOLA SMITH

(Name of first defendant listed on the complaint)

Defendant(s),

CIVIL ACTION

ANSWER

Nicola Smith residing at
(Insert your name(s))
34 Yale Ave. Jersey City NJ 07304
(Insert your street address)

in the City of JERSEY CITY County of HUDSON and State of NJ,
by way of Answer to the plaintiff's complaint herein, says.

AS TO THE FIRST COUNT:

Defendant admits/denies or is without knowledge or information sufficient to form a belief as to the truth of the allegation of each of the following paragraphs of the first count of the complaint as follows:

I, Nicola Smith being the owner of the premises subject of the referenced foreclosure action object to the foreclosure proceeding

Appendix XII-B2

FORECLOSURE CASE INFORMATION STATEMENT (FCIS)		FOR USE BY CLERK'S OFFICE ONLY
 <p>Use for initial Chancery Division — General Equity foreclosure pleadings (not motions) under Rule 4:5-1. Pleading will be rejected for filing, under Rule 1:5-6(c), if information is not furnished or if attorney's signature is not affixed.</p>	PAYMENT TYPE <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA <input type="checkbox"/> MO	
	RECEIPT NO	
	AMOUNT	
	OVERPAYMENT	
	BATCH NUMBER	
	BATCH DATE	
SECTION A: TO BE COMPLETED BY ALL PARTIES		
CAPTION GMAC Mortgage, LLC, PLAINTIFF V. NICOLA SMITH, DEFENDANT	COUNTY OF VENUE HUDSON COUNTY	
NAME(S) OF FILING PARTY(IES) (e.g. John Doe, Plaintiff) Nicola Smith - Defendant		DOCKET NUMBER (when available) F-025354-12
ATTORNEY NAME (IF APPLICABLE)		DOCUMENT TYPE <input type="checkbox"/> COMPLAINT <input type="checkbox"/> ANSWER <input type="checkbox"/> OTHER
FIRM NAME (IF APPLICABLE)		
MAILING ADDRESS 34 YALE AVENUE, JERSEY CITY NJ 07304		DAYTIME TELEPHONE NUMBER 973 493 2950
SECTION B: TO BE COMPLETED BY PLAINTIFF TO INITIAL COMPLAINT		
FORECLOSURE CASE TYPE NUMBER <input type="checkbox"/> 088 IN PERSONAM TAX FORECLOSURE <input type="checkbox"/> 089 IN REM TAX FORECLOSURE <input type="checkbox"/> 0RF RESIDENTIAL MORTGAGE FORECLOSURE <input type="checkbox"/> 0CF COMMERCIAL MORTGAGE FORECLOSURE <input type="checkbox"/> 0CD CONDOMINIUM OR HOMEOWNER'S ASSOCIATION LIEN FORECLOSURE <input type="checkbox"/> 091 STRICT FORECLOSURE <input type="checkbox"/> 0FP OPTIONAL FORECLOSURE PROCEDURE (NO SALE) <input type="checkbox"/> 0TS TIME SHARE FORECLOSURE		IS THIS A HIGH RISK MORTGAGE PURSUANT TO P L 2009, C 84 AND P L 2008, C 127 <input type="checkbox"/> Yes <input type="checkbox"/> No PURCHASE MONEY MORTGAGE <input type="checkbox"/> Yes <input type="checkbox"/> No RELATED PENDING CASE <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES, LIST DOCKET NUMBERS
FULL PHYSICAL STREET ADDRESS OF PROPERTY.		<div style="border: 2px solid black; padding: 10px; width: fit-content; margin: auto;"> <p style="font-size: 24px; font-weight: bold; margin: 0;">RECEIVED</p> <p style="font-size: 18px; font-weight: bold; margin: 0;">FEB 25 2013</p> <p style="font-size: 14px; font-weight: bold; margin: 0;">SUPERIOR COURT CLERK'S OFFICE</p> </div>
MUNICIPALITY CODE (*)		
MUNICIPAL BLOCK. (LOTS)		
ZIP CODE	COUNTY.	
ALL FILING PARTIES MUST SIGN AND PRINT NAMES(S) AND DATE THE FORM BELOW		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).		
ATTORNEY / SELF REPRESENTED SIGNATURE 	PRINT ATTORNEY / SELF REPRESENTED NAME Nicola Smith	DATE 2/23/13

*The Municipality Codes can be found at http://www.judiciary.state.nj.us/forms/11343_municodes.pdf

PHELAN HALLINAN & SCHMIEG, PC

400 Fellowship Road, Suite 100

Mt Laurel, NJ 08054

(856) 813-5500

Fax: (856) 813-5501

Rosemarie Diamond, Esquire
Managing Attorney for New Jersey

Representing Lenders in
Pennsylvania and New Jersey

May 17, 2010

Nicola Smith
34 Yale Avenue
Jersey City, NJ 07304

RE: THE BANK OF NEW YORK MELLON TRUST COMPANY, NATIONAL
ASSOCIATION F/K/A THE BANK OF NEW YORK TRUST COMPANY, N A AS
SUCCESSOR TO JPMORGAN CHASE BANK, N A AS TRUSTEE FOR RAMP
2006RZ4 vs. NICOLA SMITH, et al
Docket No. F-48417-09
Our File No. GMAC-5619

Dear Sir/Madam:

Service is hereby made upon you with the enclosed Notice of Motion for Entry of Final Judgment, relative to the above referenced-matter.

Very Truly Yours

Rosemarie Diamond

EAK

Regular and Certified Mail, Return Receipt Requested

GMAC-5619
PHELAN HALLINAN & SCHMIEG, PC
400 Fellowship Road, Suite 100
Mt. Laurel, NJ 08054
(856) 813-5500
Attorneys for the Plaintiff

THE BANK OF NEW YORK MELLON
TRUST COMPANY, NATIONAL
ASSOCIATION F/K/A THE BANK OF
NEW YORK TRUST COMPANY, N.A AS
SUCCESSOR TO JPMORGAN CHASE
BANK, N A AS TRUSTEE FOR RAMP
2006RZ4

PLAINTIFF,

VS.

NICOLA SMITH, ET AL.

DEFENDANT(S)

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
HUDSON COUNTY

DOCKET NO: F-48417-09

CIVIL ACTION

NOTICE OF MOTION FOR ENTRY OF
JUDGMENT

TO: Nicola Smith
34 Yale Avenue
Jersey City, NJ 07304

PLEASE TAKE NOTICE that, the undersigned, attorney for Plaintiff, will make application to the Superior Court of New Jersey, Chancery Division, at the Hughes Justice Complex-CN971, Trenton, New Jersey, for Entry of Final Judgment in the above foreclosure action. You are receiving this Motion and copy of Plaintiff's Proof of Amount Due: (a) in accordance with R.4:64-9; (b) because you have filed an Answer or appeared in the above action, or (c) because Plaintiff failed to enter Judgment within the required six (6) month period



D. Brian O'Dell
Direct (205) 521-8226
Fax (205) 488-6226
bodell@babco.com

March 12, 2013

Via Certified Mail

The Hon Paul Innes, P J Ch
Superior Court of New Jersey
Mercer County Courthouse, First Floor
175 South Broad Street
Trenton, NJ 08650-0068

Re: **In Re Application of GMAC Mortgage, LLC**
Superior Court of New Jersey, Mercer County, Docket No F-025354-12
Borrower Name: Nicola Smith
Superior Court of New Jersey, Hudson County, Foreclosure Docket No: F-48417-09

Judge Innes:

I understand that on February 27, 2013 Nicola Smith filed an objection with the Court regarding the above-referenced Order to Show Cause. Ms Smith has not served her objection upon GMAC Mortgage, LLC ("GMACM") as of the date of this letter but, to the extent the objection is not invalidated by Ms. Smith's failure to serve it, we ask that it be denied

The Court should also dismiss Ms. Smith's objection because it is untimely. The Order to Show Cause entered December 13, 2012 requires foreclosure defendants such as Ms Smith to "file [their] objection with the Superior Court Clerk's Office ... by February 26, 2013." Order at ¶ 7 (internal punctuation omitted). Ms. Smith filed her objection on February 27, 2013.

Finally, the substance of Ms. Smith's objection also warrants denial. On January 22, 2013, Ms Smith was served the Order to Show Cause Package. On January 31, 2013, Ms Smith was approved for a Home Affordable Modification Program – Trial Period Plan. While individual foreclosure actions are placed on hold during the Trial Period, this is not a valid basis for objecting to the Order to Show Cause

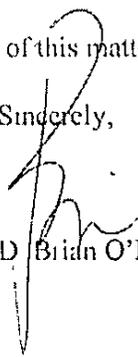
If Ms Smith performs under the terms of the Trial Plan, her individual foreclosure action will be placed on hold and will not proceed to final judgment. However, Ms. Smith's foreclosure case was properly included in this proceeding because she had not been approved for a loan modification on either (1) the date the Court granted the Order to Show Cause or (2) the date GMACM served her a corrected NOI. Because Ms. Smith's loan was properly included as part of this proceeding, GMACM should be able to rely on the corrected NOI in the event Ms. Smith fails to comply with the Trial Plan or any subsequent loan modification. Therefore, the Court should deny Ms Smith's objection.

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RE: Nicola Smith
March 12, 2013
Page 2

I thank the Court for its consideration of this matter.

Sincerely,



D. Brian O'Dell

DBO/jrk

cc: Superior Court Clerk's Office (via electronic filing)

Nicola Smith (via certified mail)
34 Yale Avenue
Jersey City, NJ 07304