STATE OF ILLINOIS

COUNTY OF LAKE

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT,

LAKE COUNTY, WAUKEGAN, ILLINOIS

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| U.S. BANK NATIONAL ASSOCIATION |  |
| Plaintiff, | Case No. 18 CH 120 |
| vs. |  |
| Property Address:  1222 LAKE SHORE DRIVE  ROUND LAKE, IL 60073 |
| SOLEDAD HERNANDEZ, ROGELIO SEGUNDO, UNKNOWN OWNERS AND NON-RECORD CLAIMANTS |  |
| Defendant(s). |  |

**MOTION FOR DECLARATORY JUDGMENT**

* + - * 1. NOW COMES the Plaintiff U.S. BANK NATIONAL ASSOCIATION, by and through its attorneys Marinosci Law Group, P.C., and files its Motion for Declaratory Judgment and states as follows:

1. On April 19, 2002 MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., SOLELY AS NOMINEE FOR GMAC MORTGAGE CORPORATION, A PENNSYLVANIA CORPORATION conveyed to MARTIN G. LARA A/K/A MARTIN L. GARCIA AND REBECA G. LARA A/K/A REBECA L. GARCIA (“Previous Owners”) a mortgage in the amount of $40,000, recorded on June 14, 2002 as document no. 4943900. (Exhibit A)
2. On July 29, 2002, the Previous Owners conveyed the Property by warranty deed to SOLDED HERNANDEZ and ROGELIO SEGUNDO as joint tenants. (Exhibit B)
3. That also on July 29, 2002 a Settlement Statement was prepared (the “HUD 1”) stating that the settlement costs and amounts paid pursuant to the July 29, 2002 closing. That the HUD 1 lists under section K, line no, 504 “Payoff of first mortgage loan GMAC MORTGAGE CORP $54,473.36. (Exhibit C)
4. That the GMAC Mortgage states in relevant part:
   1. That its lien on the Property “will attach on the date this Mortgage is recorded and will not be impaired prior to termination of the Agreement by virtue of… repayment in full;”
   2. That “[u]pon payment and discharge of all sums secured by this Mortgage and termination of the Account, this Mortgage shall be void and GMAC shall release this Mortgage”
5. On May 14, 2012, GMAC MORTGAGE CORPORATION, A PENNSYLVANIA CORPORATION filed for bankruptcy under case number 12-bk-12020 in the United States Bankruptcy Court for the Southern District of New York.
6. As a result of the 12-bk-12020 bankruptcy case certain assets of GMAC MORTGAGE CORPORATION, A PENNSYLVANIA CORPORATION, including servicing rights were sold to Ocwen Loan Servicing, LLC made effective February 16, 2013.
7. After a due diligent search inquiry, it has been determined that Ocwen Loan Servicing, LLC did not acquire servicing rights for the mortgage recorded as document no. 4943900.
8. Further, on December 17, 2013, GMAC MORTGAGE CORPORATION, A PENNSYLVANIA CORPORATION went out of business due to chapter 11 bankruptcy.
9. That, after due and diligent investigation the mortgage recorded as document no. 4943900 was paid off and no release was recorded.
10. As a result, the mortgage recorded as document no. 4943900 shall no longer be deemed as a valid lien and GMAC MORTGAGE CORPORATION, A PENNSYLVANIA CORPORATION no longer has an interest in the subject property and represent the only potential interest remaining that could be connected to the property and that any claims of the Defendant under which the Plaintiff’s Mortgage constitute a cloud on title of Plaintiff to the Property, which greatly diminishes the value and interferes with the right to enjoy and occupy the Property.
11. Plaintiff has no adequate remedy at law.

WHEREFORE the Plaintiff prays that this Court enter an order Quieting, establishing and confirming title to the real estate in the name of SOLEDAD HERNANDEZ, ROGELIO SEGUNDO, subject to the Mortgage that is the subject of this action and free and clear of any claim of the remaining defendants; enjoining GMAC MORTGAGE CORPORATION, A PENNSYLVANIA CORPORATION, and all persons claiming under it, from asserting an adverse claim to Plaintiff’s interest in the Property; Holding that the 2002 Mortgage be determined void and held for naught; Awarding to Plaintiff such other and further relief that the Court deems fit and proper under the circumstances.

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| Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Respectfully Submitted,  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Kathryn Bodanza  Marinosci Law Group, P.C. |

MARINOSCI LAW GROUP, P.C.

Attorneys for Plaintiff

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1. **ORDER FOR DECLARATORY JUDGMENT**

THIS CAUSE coming before the Court upon Plaintiff’s Motion for Judgment of Foreclosure and Sale and its Complaint seeking declaratory judgment, due notice having been given and the Court being fully advised in the premise;

THE COURT FINDS:

1. On or about April 19, 2002 MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., SOLELY AS NOMINEE FOR GMAC MORTGAGE CORPORATION, A PENNSYLVANIA CORPORATION conveyed to MARTIN G. LARA A/K/A MARTIN L. GARCIA AND REBECA G. LARA A/K/A REBECA L. GARCIA (“Previous Owners”) a mortgage in the amount of $40,000, recorded on June 14, 2002 as document no. 4943900.
2. The mortgage recorded as document no. 4943900 is determined to be void and held for naught, and GMAC MORTGAGE CORPORATION, A PENNSYLVANIA CORPORATION no longer has an interest in the subject property.
3. GMAC MORTGAGE CORPORATION, A PENNSYLVANIA CORPORATION, and all persons claiming under it, are enjoined from asserting an adverse claim to Plaintiff’s interest in the Property.
4. Title to the real estate is established and confirmed in the name of SOLEDAD HERNANDEZ, ROGELIO SEGUNDO, subject to the Mortgage that is the subject of this action and free and clear of any claim of the remaining defendants

Enter: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGE

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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