

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT



In re:

David Roy Orcutt and,
Hollie Jean Stevens,
Debtors.

Chapter 13 case
11-10553

David Roy Orcutt and,
Hollie Jean Stevens,
Plaintiffs,

v.

GMAC Mortgage, LLC,
Defendant.

Adversary Proceeding
11-1013

Appearances: Michelle M. Kainen, Esq.
White River Junction, VT
Attorneys for Plaintiffs

James B. Anderson, Esq.
Rutland, VT
Attorney for Defendant

ORDER
GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT
AND DENYING DEFENDANT'S CROSS-MOTION FOR SUMMARY JUDGMENT

For the reasons set forth in the memorandum of decision of even date, the COURT FINDS that the Plaintiffs have standing to challenge the extent and validity of the 2007 mortgage, there are no material facts in dispute with respect to the validity of the 2007 mortgage, and the Plaintiffs are entitled to judgment as a matter of law under 27 V.S.A. § 141.

Having found that the Plaintiffs are entitled to judgment under count 1, the COURT FURTHER FINDS that it need not address the issues the Defendant raised in its cross-motion for summary judgment with respect to count II.

Accordingly, IT IS HEREBY ORDERED that the Plaintiff's motion for summary judgment is granted, judgment is entered in favor of the Plaintiffs on count I of the amended complaint because the 2007 Mortgage does not meet the requirements of 27 V.S.A. § 141, and the 2007 Mortgage is declared to be inoperative.

IT IS FURTHER ORDERED that the Defendant's cross-motion for summary judgment is denied.

SO ORDERED.

February 24, 2012
Burlington, Vermont

A handwritten signature in cursive script, reading "Colleen A. Brown".

Colleen A. Brown
United States Bankruptcy Judge