

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WENDY ALISON NORA,

Plaintiff,

OPINION AND ORDER

v.

10-cv-748-wmc

RESIDENTIAL FUNDING COMPANY, LLC,
RFC TRUST 03 LOAN POOL NUMBER
RASC2002KSSCONF, GMAC-RFC HOLDING
COMPANY, LLC, RESIDENTIAL CAPITAL, LLC,
GMAC MORTGAGE GROUP, LLC, GMAC
MORTGAGE, LLC, GMAC FINANCIAL SERVICES,
MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC., AEGIS MORTGAGE
CORPORATION, GRAY & ASSOCIATES, LLP,
JAY PITNER, MICHAEL RILEY, WILLIAM N.
FOSHAG, BASS & MOGLOWSKY, S.C., ARTHUR
MOGLOWSKY, DAVID M. POTTEIGER, PENNY
M. GENTGES, JEFFREY STEPHAN, MANISH
VERMA, AMY NELSON, HOMECOMINGS
FINANCIAL, LLC, ALLY FINANCIAL, INC.,
CERBERUS CAPITAL MANAGEMENT, LP,
KENNETH UGWUADU, and UNNAMED
CO-CONSPIRATORS,

Defendants.

Before the court is plaintiff Wendy Alison Nora's motion to vacate judgment pursuant to Federal Rule of Civil Procedure 60. (Dkt. #72.) The court previously dismissed her countless claims against defendants as barred by the *Rooker-Feldman*¹ doctrine and entered judgment in defendants' favor. (9/30/12 Op. & Order (dkt. #69).)

¹ *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923).

Now, Nora seeks relief from that judgment in a seventeen-page rambling essay. As far as the court can tell, Nora seeks an order vacating the judgment because (1) the state court was without jurisdiction to adjudicate the foreclosure and, therefore, she is not a “state court loser” under *Rooker-Feldman*; (2) because of her appeal of ancillary issues in the underlying state court action, she is also not a “state court loser”; and (3) there is new evidence to support Nora’s allegation of racketeering activities and she was prevented from amending her complaint to add these allegations because of an automatic stay in effect by virtue of the filing of Ch. 11 bankruptcy proceedings by certain defendants.²

As for the first assertion, Nora already argued and the court previously rejected her argument that her claims against defendants were properly before this court because the state court foreclosure action is void. Nora fails to cite any caselaw in support of this argument, and the policy underlying the *Rooker-Feldman* doctrine -- that “no matter how erroneous or unconstitutional the state court judgment may be, only the Supreme Court of the United States has jurisdiction to review it,” *Brown v. Bowman*, 668 F.3d 437, 442 (7th Cir. 2012) -- contradicts it. To the extent Nora’s argument has any legs, it is up to the state courts to decide.

² Also before the court is Nora’s motion for reconsideration (dkt. #71), in which she asks the court to correct a sentence in the motion to dismiss which states that, “Nora secured a mortgage on her home from defendant Cerberus Capital Management, L.P. (Am. Compl. (dkt. #7) ¶ 28.)” (9/30/12 Op. & Order (dkt. #69) 2.) Nora contends that the complaint alleges that AEGIS was the original mortgagee. The motion for reconsideration is denied as moot, but the court notes that ¶ 28 of plaintiff’s complaint provides, “AEGIS participated in the GMAC RACKETEERING ENTERPRISE through CEREBUS [*sic*] as the original lender to Plaintiff and procured Plaintiff’s promissory note payable to AEGIS and created MERS as its nominee for Plaintiff’s mortgage. MERS was formed for the purposes described at paragraph 27., above.” (Am. Compl. (dkt. #7) ¶ 28.)

Second, Nora argues that as long as her appeal of the orders denying her motion to vacate judgment and confirming the sheriff's sale are pending, she is not a state court loser. Nora again offers no new analysis or reasoning to support this argument -- and certainly no new evidence or law that she could not have raised in her original briefing on the motions to dismiss. For all of the reasons already explained in this court's opinion on the motions to dismiss, therefore, the court rejects this basis for vacating the judgment.

Finally, Nora argues that the judgment should be vacated because certain defendants' bankruptcy filings deprived her of the "right to amend the Complaint on the discovery of new evidence." (Pl.'s Mot. (dkt. #72) ¶ 69.) Even if correct, this argument suggests the court has *no* authority to vacate its judgment pending completion of or referral back from the bankruptcy proceedings any more than it would to grant a motion to amend.³

If anything, Nora's motion may raise a basis for vacating the judgment with respect to certain defendants. Defendants Residential Funding Company, LLC, GMAC-RFC Holding Company, LLC, Residential Capital, LLC, GMAC Mortgage, LLC, and Homecomings Mortgage, LLC, filed for bankruptcy on May 15, 2012. Nora alerted the court to this fact, but the court failed to appreciate its import in issuing its September 30, 2012, opinion and order, and entering judgment in favor of all defendants. Even though

³ In her motion, Nora describes this new evidence. These new allegations -- forgeries, robo-signing and the like -- simply reinforce the court's finding that Nora's causes of action concern "injuries caused by state court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobile Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). Indeed, if Nora had filed a motion for leave to amend her complaint based on this new evidence, the court would have denied the motion as futile.

the purpose of the automatic stay is to protect the debtor, and here the court granted those debtor defendants' motion to dismiss and entered judgment in their favor, the judgment against those five defendants may be void or voidable. *See Middle Tenn. News Co., Inc. v. Charnel of Cincinnati, Inc.*, 250 F.3d 1077, 1082 (7th Cir. 2001) ("Actions taken in violation of an automatic stay ordinarily are void."). The determination of whether the judgment is voidable and, if so, whether to annul the stay pursuant to 11 U.S.C. § 362(d), however, is best left for the bankruptcy court.

ORDER

IT IS ORDERED that:

- 1) plaintiff Wendy Alison Nora's motion for reconsideration (dkt. #71) is DENIED AS MOOT; and
- 2) plaintiff's motion to vacate the judgment (dkt. #72) is DENIED.

Entered this 1st day of March, 2013.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge