

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
THOMAS HARRY JR. and	)	
GRETCHEN C. HARRY,	)	
	)	
Plaintiff,	)	
	)	Civil Action No: 1:16-cv-10765-DPW
v.	)	
	)	
COUNTRYWIDE HOME LOANS, INC.; BAC	)	
HOME LOANS SERVICING, LP; BANK OF	)	
AMERICA, N.A.; THE BANK OF NEW YORK	)	
MELLON F/K/A/ THE BANK OF NEW YORK	)	
AS TRUSTEE FOR THE	)	
CERTIFICATEHOLDERS OF THE CWABS, INC.,	)	
ASSET-BACKED CERTIFICATES, SERIES	)	
2005-17; GREEN TREE SERVICING, LLC;	)	
MORTGAGE ELECTRONIC RECORDING	)	
SYSTEM, INC.; JOHN/JANE DOES 1-100 ALL	)	
UNKNOWN PERSONS WHO CLAIM ANY	)	
INTEREST IN THE SUBJECT MATTER OF	)	
THIS ACTION,	)	
Defendants.	)	
_____	)	

**MOTION TO DISMISS**

Defendants Ditech Financial LLC, formerly known as Green Tree Servicing LLC (“Ditech”), Mortgage Electronic Recording System, Inc. (“MERS”) and The Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificateholders of CWABS, Inc. (the “Trust”) (collectively “Defendants”), move pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss the claims asserted by Thomas and Gretchen Harry.

**INTRODUCTION**

On November 22, 2005, Thomas and Gretchen Harry (collectively “Harrys”) signed a note payable to Countrywide Home Loans, Inc. (“Countrywide”) and a mortgage (the “Mortgage”) granting MERS as nominee for Countrywide a security interest in property located

ME1 22614391v.1

*Motion denied as moot.*

*NSM Gorton, US DJ 8/8/16*