

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D24678  
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Argued - September 15, 2009

REINALDO E. RIVERA, J.P.  
ANITA R. FLORIO  
HOWARD MILLER  
LEONARD B. AUSTIN, JJ.

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2008-08812

DECISION & ORDER

Deutsche Bank National Trust Company, etc.,  
respondent, v Kimberlee M. Young, et al.,  
appellants, et al., defendants.

(Index No. 7245/07)

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Clair & Gjertsen, Scarsdale, N.Y. (Ira S. Clair of counsel), for appellants.

Steven J. Baum, P.C., Amherst, N.Y. (Suzanne E. Panara and Caren L. Samplin of counsel), for respondent.

In an action to foreclose a mortgage, the defendants Kimberlee M. Young and Anthony T. Young appeal from an order of the Supreme Court, Orange County (Owen, J.), dated July 15, 2008, which denied their motion, inter alia, to vacate a final judgment of foreclosure and sale of the same court dated March 24, 2008.

ORDERED that the order is affirmed, with costs.

Contrary to the appellants' contention, the Supreme Court did not err in determining that they waived the issue of standing by failing to timely appear or answer (*see* CPLR 3211[a][3], [e]; *HSBC Bank, USA v Dammond*, 59 AD3d 679; *Wells Fargo Bank Minn., N.A. v Mastropaolo*, 42 AD3d 239).

In light of this determination, we need not reach the appellants' remaining contention.

RIVERA, J.P., FLORIO, MILLER and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

October 20, 2009

DEUTSCHE BANK NATIONAL TRUST COMPANY v YOUNG