

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

D31129  
G/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - April 14, 2011

MARK C. DILLON, J.P.  
JOSEPH COVELLO  
RANDALL T. ENG  
CHERYL E. CHAMBERS, JJ.

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2010-08471

DECISION & ORDER

Sovereign Bank, respondent, v Oscar Calderone,  
appellant.

(Index No. 12032/08)

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The Law Firm of Jeffrey L. Solomon, PLLC, Woodbury, N.Y., for appellant.

Riker Danzig Scherer Hyland & Perretti LLP, New York, N.Y. (Jonathan P. Vuotto  
of counsel; Gerald A. Liloia on the brief), for respondent.

In an action to foreclose a mortgage, the defendant appeals from an order of the Supreme Court, Nassau County (Adams, J.), entered August 9, 2010, which denied his motion to dismiss the complaint pursuant to Judiciary Law § 470.

ORDERED that the order is affirmed, with costs.

The defendant moved to dismiss the complaint, arguing that, based on the plaintiff's filings with the Supreme Court, the attorney who commenced the action on the plaintiff's behalf did not maintain an office "for the transaction of law business" within this State in violation of Judiciary Law § 470. In opposition, the plaintiff's counsel provided an affidavit indicating that she maintained an office at the plaintiff's Brooklyn location. The defendant failed to rebut the plaintiff's evidence and, thus, he did not demonstrate that the plaintiff's attorney was in violation of Judiciary Law § 470 (*see Matter of Scarsella*, 195 AD2d 513, 515-516; *cf. Elm Mgt. Corp. v Sprung*, 33 AD3d 753, 754). Moreover, even had the defendant demonstrated that the plaintiff's counsel was in violation of Judiciary Law § 470, such violation would "not provide a basis for the defendant to have the

May 3, 2011

Page 1.

SOVEREIGN BANK v CALDERONE

complaint against him dismissed” (*Elm Mgt. Corp. v Sprung*, 33 AD3d at 754). Accordingly, the Supreme Court properly denied the defendant’s motion to dismiss the complaint.

DILLON, J.P., COVELLO, ENG and CHAMBERS, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court