

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

D36484  
N/ct

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

Submitted - October 16, 2012

REINALDO E. RIVERA, J.P.  
CHERYL E. CHAMBERS  
L. PRISCILLA HALL  
PLUMMER E. LOTT, JJ.

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2011-11859

DECISION & ORDER

OneWest Bank, FSB, etc., respondent, v Fidelis  
Mgbeahuru, appellant, et al., defendants.

(Index No. 016475/09)

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Fidelis Mgbeahuru, Uniondale, N.Y., appellant pro se.

McCabe, Weisberg & Conway, P.C., New Rochelle, N.Y. (Richard P. O'Brien of  
counsel), for respondent.

In an action to foreclose a mortgage, the defendant Fidelis Mgbeahuru appeals from  
an order of the Supreme Court, Nassau County (Adams, J.), entered September 20, 2011, which  
denied his motion pursuant to CPLR 6514 to cancel a notice of pendency.

ORDERED that the order is affirmed, with costs.

The defendant Fidelis Mgbeahuru (hereinafter the defendant) was not entitled to  
cancellation of a notice of pendency on the property involved in this foreclosure action, as this action  
had not been "settled, discontinued or abated" at the time he made his motion (CPLR 6514[a]; *see  
generally Nastasi v Nastasi*, 26 AD3d 32, 36 ). The defendant's remaining contentions are either  
not properly before this Court or without merit. Accordingly, the Supreme Court properly denied  
the defendant's motion pursuant to CPLR 6514 to cancel the notice of pendency.

RIVERA, J.P., CHAMBERS, HALL and LOTT, JJ., concur.

ENTER:



Aprilanne Agostino  
Clerk of the Court

November 21, 2012

ONEWEST BANK, FSB v MGBEAHURU