

At Part 29 of the Supreme Court held in the County of Suffolk, at the One Court Street, Riverhead, NY Courthouse thereof, on the ___ day of _____, 2018.

PRESENT: HONORABLE LINDA KEVINS
JUSTICE OF THE SUPREME COURT

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INDEX NO.:

**ORDER OF REFERENCE AND
DEFAULT JUDGMENT**

Plaintiff(s),

v.

Defendant(s).

MORTGAGED PROPERTY:
COUNTY:
SBL #:

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UPON the Summons, Complaint, and Notice of Pendency filed in this action on the [Day] day of [Month], [Year], the Notice of Motion dated [date], the affirmation of [Plaintiff's Counsel], and the exhibits annexed thereto, the affidavit of merit and amount due by [Name of AOM Signor] who is [AOM Signor's title] of [Name of Company AOM Signor Works For], duly sworn to on [Date AOM Signed], together with the exhibits attached thereto, and all prior papers filed in this action and prior proceedings had herein; and

UPON proof that each of the defendants herein has been duly served with the Summons and Complaint in this action and required notices; and

UPON a Notice of Appearance by [list defendants that filed a notice of appearance];

[If Applicable] AND the court having held a mandatory settlement conference pursuant to CPLR §3408 [Choose a or b]:

- a. A settlement was not reached and the case was released from the settlement conference part on [date].
- b. Plaintiff attended a settlement conference on [Date] but the defendant mortgagor(s) failed to appear and the case was released from the settlement conference part;

[If Applicable] AND it appearing that the defendant(s)/ mortgagor(s) is/are not resident(s) of the property subject to foreclosure;

AND it appearing that [List Defaulting Defendants] time to answer the complaint has expired; and

AND it appearing to the satisfaction of this court that this action was brought to foreclose a mortgage on real property located at [Property Address], in the County of [County Name], State of New York [Section ____ , Block ____ , Lot ____],

NOW, on motion by [Law Firm Name], attorney for the Plaintiff, it is hereby

ORDERED that defendant(s) [list defendants] are determined to be in default; and it is further

ORDERED that [Name of Referee] with an address of [Referee's Address], is hereby appointed Referee, in accordance with RPAPL §1321, to compute the amount due to Plaintiff, except attorney's fees, and to examine whether the mortgaged property may be sold in parcels; and it is further

ORDERED that the scope of a referee's duties are defined by the order of reference (CPLR §4311 & RPAPL §1321) and the referee has no power beyond

that which is limited in this order of reference (*Zaslavskaya v. Boyanzhu*, 144 AD3d 675, 41 NYS3d 237 [2nd Dept., 2016]. In this action, no hearing shall be required as the referee is appointed to hear and report, which is a purely ministerial act. Objections, if any, shall be the subject of applications made directly to the court, and it is further

ORDERED that the Referee make his/her computation and report with all convenient speed; and it is further

ORDERED that by accepting this appointment the Referee certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2 (c) (“Disqualifications from appointment”), and §36.2 (d) (“Limitations on appointments based upon compensation”), and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED that, pursuant to CPLR §8003(a), a fee of \$_____, shall be paid to the Referee for the computation of the amount due and upon the filing of his/her report and the Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR §8003(b); and it is further

ORDERED that the Referee is prohibited from accepting or retaining any funds for him/herself or paying funds to him/herself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED [*if any tenants or other defendants are being added to the caption reflect that here and in the caption below; -OR-*] that “John Doe” be removed as a party defendant in this action as no occupants reside at the property and the caption of this action be amended to reflect the removal of “John Doe” as a party defendant; and it is further

[*If applicable*] ORDERED that [*New Note Holder*] be substituted into the caption in the place and stead of Plaintiff, and, following such substitution, that the Clerk of the Court amend the docket and electronic docket accordingly; and it is further

ORDERED that the caption shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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Plaintiff(s),

INDEX NO:

v.

MORTGAGED PROPERTY:

COUNTY:

SBL#:

Defendant(s).

-----X

And it is further

ORDERED, that Plaintiff is directed to serve a copy of this Order with Notice of Entry within 20 days of the date of this Order upon all parties who have not waived further notice, as well as upon the Referee appointed herein, and to promptly file the Affidavits of Service with the Clerk of the Court.

This constitutes the decision and order of the court.

DATED: _____

ENTER:

J.S.C.