

At a term of Supreme Court of the State of New York held in and for the County of Herkimer at the Herkimer County Courthouse, Herkimer, New York, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF HERKIMER

PRESENT: HON. \_\_\_\_\_  
\_\_\_\_\_

Plaintiff,

**ORDER OF REFERENCE**

-v-

Index No:

RJI No:

Property Address:

Defendants.

Plaintiff having moved this Court for an Order:

**[PLAINTIFF'S COUNSEL MUST CHECK AND COMPLETE  
ALL APPLICABLE ENTRIES IN THIS ORDER OF  
REFERENCE EXCEPT AS OTHERWISE NOTED]**

- striking the answer of defendant(s) \_\_\_\_\_ and converting each such appearance to a general notice of appearance
- pursuant to CPLR §3215, granting plaintiff default judgment
- pursuant to CPLR §3212, granting plaintiff summary judgment
- amending the caption to
- delete defendant(s) \_\_\_\_\_
- substitute the names of \_\_\_\_\_ for defendant(s) John Doe and/or Jane Doe

- other \_\_\_\_\_
- pursuant to RPAPL §1321, appointing a Referee to compute the sums due plaintiff on the Note and Mortgage
- other [specify]: \_\_\_\_\_.

**NOW**, upon plaintiff's  ex parte application or  motion heard on \_\_\_\_\_ at which time  plaintiff /  defendant appeared, or  no appearances were required, and upon the Summons and Complaint and proof that all defendants have been served, and upon proof that the time for all defendant(s) to answer or appear has expired, and upon the:

- 1) affidavit of \_\_\_\_\_ dated \_\_\_\_\_, with Exhibits \_\_\_ - \_\_\_ annexed;
- 2) affirmation of \_\_\_\_\_ affirmed on \_\_\_\_\_, with Exhibits \_\_\_ - \_\_\_ annexed;
- 3) other [specify]: \_\_\_\_\_;

it is hereby

**ORDERED** that the plaintiff's motion:

- for a default judgment pursuant to CPLR § 3215 and RPAPL § 1321 is granted;
- to strike defendant(s)' answer and for summary judgment pursuant to CPLR §3212 is granted;
- other [specify]: \_\_\_\_\_;

and it is further

**ORDERED** that the caption of this action is amended to

- delete the name(s) of defendant(s) \_\_\_\_\_
- substitute the name(s) of \_\_\_\_\_  
for defendant(s) John Doe and/or Jane Doe
- other [specify]: \_\_\_\_\_

and it is further

**ORDERED** that the caption of this action as amended shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF HERKIMER

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Plaintiff,

-v-

Defendant(s).

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and it is further

**ORDERED** that [*the Court will designate the Referee*]

Name: \_\_\_\_\_, Esq.

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

is hereby appointed Referee to ascertain, compute and report the total amount due to plaintiff for unpaid principal, accrued interest and all reasonable mortgage costs and expenses other than attorneys' fees secured by the Note and Mortgage sued upon and set forth in the Complaint, and to examine and report as to whether the mortgaged premises should be sold in one parcel. The Referee shall not be required to notice or conduct a hearing and the plaintiff may submit to the Referee its proof by affidavit; 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 section 36.2(c) ("Disqualifications from appointment") and section 36.2 (d) ("Limitations on appointments based upon compensation"); and it is further

**ORDERED** that pursuant to CPLR §8003(a), in the discretion of the Court, the Referee shall be paid a fee of \$350.00 upon the filing of the Report of the Referee computing the amount due to plaintiff; and it is further

**ORDERED** that during the pendency of this action, if any interest in the Note and/or Mortgage that is the subject of this action has been or is transferred, the person or entity to whom the interest has been or is transferred shall apply to the Court within thirty (30) days of the transfer to be substituted or joined in this action pursuant to CPLR §1018; and it is further

**ORDERED** that the Referee shall file his/her Report on or before \_\_\_\_\_  
[*the Court will insert this date*]; and it is further

**ORDERED** that on or before \_\_\_\_\_[*the Court will insert this date*], the plaintiff shall submit as appropriate a Motion or an Ex Parte application in compliance with all legal and administrative requirements for a Judgment of Foreclosure and Sale; and it is further

**ORDERED** that in the event plaintiff fails to timely submit the required Motion or Ex Parte application for a Judgment of Foreclosure and Sale, in its discretion, the Court may either (1) strike all interest accruing on the loan as of the subject date together with any and all late fees, penalties, property inspection fees and preservation costs; or (2) dismiss the action for plaintiff's failure to comply with the Court's deadline (*see Andrea v. Arnone, Hedin, Casker, Kennedy & Drake*, 5 NY3d 514 (2005)).

Dated: \_\_\_\_\_

\_\_\_\_\_ J.S.C.