

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

D54988
C/hu

_____AD3d_____

Submitted - November 27, 2017

CHERYL E. CHAMBERS, J.P.
SHERI S. ROMAN
ROBERT J. MILLER
COLLEEN D. DUFFY, JJ.

2015-12250

DECISION & ORDER

US Bank, N.A., respondent, v Clement Morrison,
etc., et al., appellants, et al., defendants.

(Index No. 30754/10)

Clement Morrison, Springfield Gardens, NY, and Vyanne McBean, Springfield
Gardens, NY, appellants pro se (one brief filed).

Appeal by the defendants Clement Morrison and Vyanne McBean from an order of
the Supreme Court, Queens County (Denis J. Butler, J.), dated October 6, 2015. The order, insofar
as appealed from, denied that branch of their motion which was for recusal.

ORDERED that the order is affirmed insofar as appealed from, without costs or
disbursements.

In 2010, the plaintiff commenced this action against Clement Morrison and Vyanne
McBean (hereinafter together the defendants), among others, to foreclose a mortgage. In May 2015,
the defendants moved, inter alia, for recusal, alleging that the Supreme Court was biased against
them in favor of the plaintiff and its attorney. In an order dated October 6, 2015, the Supreme Court
denied that branch of the motion. The defendants appeal.

“Absent a legal disqualification under Judiciary Law § 14, a court is the sole arbiter
[of its] recusal, and its decision is a matter of discretion and personal conscience” (*Aebly v Lally*, 140
AD3d 677, 678; *see Prince v Prince*, 134 AD3d 1008; *Vogelgesang v Vogelgesang*, 71 AD3d 1131).
Here, the defendants failed to set forth any proof of bias or prejudice to warrant the recusal.
Accordingly, the Supreme Court providently exercised its discretion in denying the subject branch

April 4, 2018


Page 1.

US BANK, N.A. v MORRISON

of the defendants' motion (*see Prince v Prince*, 134 AD3d at 1008; *Vogelgesang v Vogelgesang*, 71 AD3d at 1131).

CHAMBERS, J.P., ROMAN, MILLER and DUFFY, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court