

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

D57055  
Q/htr

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

Submitted - May 31, 2018

REINALDO E. RIVERA, J.P.  
ROBERT J. MILLER  
BETSY BARROS  
FRANCESCA E. CONNOLLY, JJ.

---

2016-10067

DECISION & ORDER

Deutsche Bank National Trust Company, etc.,  
respondent, v Walter Heitner, Jr., appellant, et al.,  
defendants.

(Index No. 26768/09)

---

Warshaw Burstein, LLP, New York, NY (Pankaj Malik of counsel), for appellant.

Hogan Lovells US LLP, New York, NY (Heather R. Gushue, David Dunn, and  
Chava Brandriss of counsel), for respondent.


In an action to foreclose a mortgage, the defendant Walter Heitner, Jr., appeals from an order of the Supreme Court, Nassau County (Thomas A. Adams, J.), entered September 9, 2015. The order, insofar as appealed from, in effect, upon reargument, adhered to a determination in an order of the same court entered March 31, 2015, denying that branch of the motion of the defendant Walter Heitner, Jr., which was for summary judgment dismissing the complaint insofar as asserted against him.

ORDERED that the appeal is dismissed as academic, without costs or disbursements.

The appeal from the order entered September 9, 2015, has been rendered academic in light of our determination on the appeal from the order entered March 31, 2015 (*see Deutsche Bank National Trust Company v Heitner*, \_\_\_ AD3d \_\_\_ [Appellate Division Docket No. 2015-06012; decided herewith]).

RIVERA, J.P., MILLER, BARROS and CONNOLLY, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court

October 24, 2018

DEUTSCHE BANK NATIONAL TRUST COMPANY v HEITNER