

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

M247943  
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REINALDO E. RIVERA, J.P.  
RUTH C. BALKIN  
SHERI S. ROMAN  
LINDA CHRISTOPHER, JJ.

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2015-08033

DECISION & ORDER ON MOTION

Russell Carbone, appellant, v US Bank  
National Association, etc., respondent.

(Index No. 5350/14)

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Appeal by Russell Carbone from an order of the Supreme Court, Queens County, entered May 19, 2015, which was determined by a decision and order of this Court dated December 13, 2017. In the decision and order dated December 13, 2017, the parties were directed to show cause why an order should or should not be made and entered imposing such sanctions and/or costs, if any, including appellate counsel fees, against Russell Carbone pursuant to 22 NYCRR 130-1.1(c) as this Court may deem appropriate.

Now, upon the Court's own motion and upon the papers filed in response to the decision and order dated December 13, 2017, it is

ORDERED that Russell Carbone is directed to pay a sanction in the sum of \$2,500 and shall deposit the sum of \$2,500 with the Clerk of this Court for transmittal to the Commissioner of Taxation and Finance (*see* 22 NYCRR 130-1.3), within 20 days after service of a copy of this decision and order on motion upon him; and it is further,

ORDERED that the Clerk of the Supreme Court, Queens County, shall enter judgment accordingly (*see* 22 NYCRR 130-1.2); and it is further,

ORDERED that the Clerk of this Court, or her designee, shall serve a copy of this decision and order on motion upon the parties by regular mail.

In affirming the order on appeal we noted that “[h]ere, as in *Carbone v Deutsche Bank Natl. Trust Co.*, a case involving the same plaintiff and almost identical facts, by submitting the judgment of foreclosure and sale and other documents from the prior foreclosure action, the Bank established that it had a defense founded upon documentary evidence.” Thus, we stated that “since the plaintiff has raised arguments on this appeal that appear to be “completely without merit in law

March 27, 2018

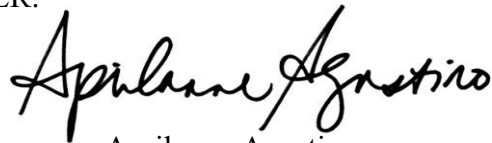
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and cannot be supported by a reasonable argument for an extension, modification, or reversal of existing law” (22 NYCRR 130-1.1[c][1]), the appeal may be frivolous.” After considering the papers submitted by the parties, we conclude that the conduct of Russell Carbone in pursuing the instant appeal was completely without merit in law or fact and unsupported by a reasonable argument for an extension, modification, or reversal of existing law (*see* Rules of Chief Administrator of Courts [22 NYCRR] § 130-1.1[c]; *Tornheim v Blue & White Food Prods. Corp.*, 73 AD3d 749; *Weinstock v Weinstock*, 253 AD2d 873, 874, *cert denied* 526 US 1088; *Palmieri v Thomas*, 29 AD3d 658, 659). Accordingly, we determine that a sanction in the amount set forth above is warranted.

RIVERA, J.P., BALKIN, ROMAN and CHRISTOPHER, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino  
Clerk of the Court