

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 17-01769

PRESENT: WHALEN, P.J., PERADOTTO, LINDLEY, DEJOSEPH, AND NEMOYER, JJ.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE
FOR MASTR SPECIALIZED LOAN TRUST 2006-3 MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2006-3,
PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

MICHAEL T. MILLER, DEBORAH L. MILLER,
DEFENDANTS-RESPONDENTS,
ET AL., DEFENDANTS.

RAS BORISKIN, LLC, WESTBURY (CHRISTOPHER LESTAK OF COUNSEL), FOR
PLAINTIFF-APPELLANT.

SCOTT BIELICKI, SHERRILL, FOR DEFENDANTS-RESPONDENTS.

Appeal from an order of the Supreme Court, Oswego County (James W. McCarthy, J.), entered November 10, 2016. The order, among other things, disallowed plaintiff from interest, costs, disbursements, attorney's fees and late fees accruing after February 2012.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: The interlocutory order on appeal is not appealable as of right pursuant to CPLR 5701 (a) (2) because it did not decide a motion made on notice (*see Novastar Mtge., Inc. v Melius*, 145 AD3d 1419, 1420 [3d Dept 2016]; *Ramos v Schoonmaker Homes-John Steinberg, Inc.*, 213 AD2d 534, 535 [2d Dept 1995]; *see generally* CPLR 2211; *Sholes v Meagher*, 100 NY2d 333, 335 [2003]). We decline to treat the notice of appeal as an application for leave to appeal under CPLR 5701 (c).

Entered: May 3, 2019

Mark W. Bennett
Clerk of the Court