

Wilmington Trust, N.A. v Pearson
2019 NY Slip Op 31339(U)
May 3, 2019
Supreme Court, New York County
Docket Number: 850058/2018
Judge: Arlene P. Bluth
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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARLENE P. BLUTH PART IAS MOTION 32

Justice

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INDEX NO. 850058/2018

WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS
INDIVIDUAL CAPACITY BUT SOLELY IN ITS CAPACITY AS
TRUSTEE OF MFRA TRUST 2014-2,

MOTION DATE _____

MOTION SEQ. NO. 001

Plaintiff,

- v -

HARRY PEARSON, THE BOARD OF MANAGERS OF 15
WILLIAM STREET CONDOMINIUM, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD, JOHN DOE AND JANE
DOE

**DECISION AND ORDER OF
REFERENCE**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 27, 28, 29, 30, 31,
32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43

were read on this motion to/for APPOINT - REFEREE

Upon the Summons, Complaint, and Notice of Pendency filed in this action on March 14,
2018, the Notice of Motion dated February 11, 2019, together with all the papers filed in support
of the motion and the exhibits annexed thereto, and all prior papers filed in this action and prior
proceedings had herein; and

Upon proof that each of the defendants herein has been duly served with the Summons
and Complaint in this action and required notices;

And it appearing to the satisfaction of this court that this action was brought to foreclose
a mortgage on real property located at 15 William Street, Unit 20C, New York, New York
10005, it is hereby

ORDERED that the motion for a default judgment by plaintiff is granted without
opposition as against all defendants; and it is further

ORDERED that Elaine Shay, 800 Third Avenue, Suite 2800 New York, NY 10022,

212-520-2690, is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff for principal, interest and other disbursements advanced as provided for in the note and mortgage upon which this action is brought, and to examine whether the mortgaged property can be sold in parcels; and it is further

ORDERED that the Referee may take testimony pursuant to RPAPL § 1321; and it is further

ORDERED that by accepting this appointment the Referee certifies that she/he is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2 (c) (“Disqualifications from appointment”), and §36.2 (d) (“Limitations on appointments based upon compensation”), and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED that, pursuant to CPLR 8003(a), and in the discretion of the court, a fee of \$350 shall be paid to the Referee for the computation of the amount due and upon the filing of her/his report and the Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR 8003(b); and it is further;

ORDERED that the Referee is prohibited from accepting or retaining any funds for herself/himself or paying funds to him/herself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED that plaintiff shall forward all necessary documents to the Referee within 30 days of the date of this order and shall *promptly* respond to every inquiry made by the referee (promptly means within two business days); and it is further

ORDERED that plaintiff must bring a motion for a judgment of foreclosure and sale within 30 days of receipt of the referee’s report; and it is further

ORDERED that if plaintiff fails to meet these deadlines, then the Court may *sua sponte* vacate this order and direct plaintiff to move again for an order of reference and the Court may *sua sponte* toll interest depending on whether the delays are due to plaintiff’s failure to move this litigation forward; and it further

ORDERED that the caption be amended to remove John Doe #1 through John Doe #12 as defendants and all Ludvig Suneson, Hans Suneson and Gina Reilly; and it is further

ORDERED that the caption shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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WILMINGTON TRUST, NATIONAL
ASSOCIATION, NOT IN ITS INDIVIDUAL
CAPACITY BUT SOLELY IN ITS CAPACITY
AS TRUSTEE OF MFRA TRUST 2014-2,

Plaintiff,

v.

HARRY PEARSON, THE BOARD OF
MANAGERS OF 15 WILLIAM STREET
CONDOMINIUM, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD,
LUDVIG SUNESON, HANS SUNESON, GINA
REILLY

Defendant(s).
-----X

and it is further

ORDERED that counsel for plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the General Clerk’s Office (60 Centre

Street, Room 119), who are directed to mark the court's records to reflect the parties being removed and added; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address (ww.nycourts.gov/supctmanh)).

ORDERED that Plaintiff shall serve a copy of this Order with notice of entry on all parties and persons entitled to notice, including the Referee appointed herein.

Next Conference: September 10, 2019 @ 2:15 p.m. If plaintiff has moved for a judgment of foreclosure and sale before the conference, then plaintiff can seek an adjournment. Please consult the part's rules for information about how to obtain an adjournment. An appearance is required if a motion for a JFS has not been made; counsel appearing for plaintiff must come prepared to explain the delay or interest may be tolled.

5/3/2019

DATE

ARLENE P. BLUTH, J.S.C.

HON. ARLENE P. BLUTH

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE