

**U.S. Bank N.A. v Rosenfeld**

2019 NY Slip Op 31637(U)

June 4, 2019

Supreme Court, New York County

Docket Number: 850028/2017

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. 850028/2017**

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE,  
SUCCESSOR IN INTEREST TO BANK OF AMERICA NATIONAL  
ASSOCIATION, AS TRUSTEE, SUCCESSOR BY MERGER TO  
LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR,

**MOTION DATE 04/12/2019**

**MOTION SEQ. NO. 003**

Plaintiff,

- v -

VALERIE ROSENFELD, RAHI REAL ESTATE HOLDINGS  
LLC, BOARD OF MANAGERS OF THE 166 EAST 63RD STREET  
CONDOMINIUM HOMEOWNERS ASSOCIATION, UNITED  
STATES OF AMERICA, CITY OF NEW YORK ENVIRONMENTAL  
CONTROL BOARD, CITY OF NEW YORK PARKING  
VIOLATIONS BUREAU, CITY OF NEW YORK TRANSIT  
ADJUDICATION BUREAU, STATE OF NEW YORK

**DECISION AND ORDER**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 003) 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70

were read on this motion to/for JUDGMENT - SUMMARY

Upon the Summons, Complaint, and Notice of Pendency filed in this action on January 24, 2017, the Plaintiff's Notice of Motion to dismiss the answer of one of the defendants, for a default judgment against other defendants, to appoint a referee to compute and order payment to the guardian ad litem dated March 19, 2019, together with all the papers filed in support of the motion including Affidavit of Trey Cook, Document Execution Associate of Nationstar, the servicer and agent for plaintiff, dated February 12, 2019, the affirmation of Austin T. Shufelt, Esq., dated March 19, 2019 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 166 East 63<sup>rd</sup> Street, Unit 20B, New York, New York Block 1397 Lot 1357 in New York County, it is hereby

ORDERED that the Answer of Defendant Board of Managers of the 166 East 63<sup>rd</sup> Street Condominium Homeowners Association be stricken and deemed a Notice of Appearance and waiver of service of all papers except the Referee's Oath and Report of Amount Due, the Judgment of Foreclosure and Sale, Notice of Sale, The Referee's Report of Sale and Notice of Proceedings to Obtain Surplus Monies, and it is further; and it is further

ORDERED that the branch of plaintiff's motion for a default judgment in favor of plaintiff against all non-appearing defendants is granted; and it is further

ORDERED that Ronald Zezima, Esq. 271 North Avenue, Suite 908, New Rochelle, New York 10801 (914) 633-5600 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 plaintiff shall pay the Paul Sklar, Esq., Guardian Ad Litem appointed in this matter, \$975 as his fee pursuant to the bills he has submitted and which are annexed to the motion; said bill shall be paid to plaintiff on or before July 18, 2019 or it shall accrue interest at the statutory rate. The \$975 shall be recoverable from the proceeds of the sale as a cost herein but no interest shall be so recoverable, and it is further

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 and the Guardian Ad Litem; and it is further

Next Conference: November 12, 2019 at 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.

ARLENE P. BLUTH, J.S.C.

6/4/2019  
DATE

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-RESPONSE
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	<b>HON. ARLENE P. BLUTH</b>
			<input type="checkbox"/>	GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	REFERENCE