

JPMorgan Chase Bank, N.A. v McGrath
2019 NY Slip Op 31814(U)
June 24, 2019
Supreme Court, New York County
Docket Number: 850145/2018
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. 850145/2018

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,

MOTION DATE _____

Plaintiff,

MOTION SEQ. NO. 002

- v -

MARY MCGRATH, AS ADMINISTRATRIX TO THE ESTATE OF SEAN P. MCGRATH A/K/A SEAN MCGRATH A/K/A SEAN PATRICK MCGRATH DECEASED, BOARD OF MANAGERS OF THE COSMOPOLITAN CONDOMINIUM, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, UNITED STATES OF AMERICA, JOHN DOE AND JANE DOE SAID NAMES BEING FICTITIOUS, IT BEING THE INTENTION OF PLAINTIFF TO DESIGNATE ANY AND ALL OCCUPANTS OF PREMISES BEING FORECLOSED HEREIN

DECISION + ORDER OF REFERENCE

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51

were read on this motion to/for APPOINT - REFEREE

Upon the foregoing documents, it is

ORDERED that the motion by plaintiff for a default judgment is granted on default and it is further

ORDERED that Thomas Kleimberger, Esq. 411 5th AVE
NY NY 10016 917-326-5523 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 is further

ORDERED that the caption be amended to remove John Doe and Jane Doe as defendants, and the caption shall read as follows:

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

-----X
JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION,

Plaintiff,

v.

MARY MCGRATH, AS ADMINISTRATRIX TO THE
ESTATE OF SEAN P. MCGRATH A/K/A SEAN
MCGRATH A/K/A SEAN PATRICK MCGRATH
DECEASED, BOARD OF MANAGERS OF THE
COSMOPOLITAN CONDOMINIUM, NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE, UNITED
STATES OF AMERICA

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 substituted; 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 (www.nycourts.gov/supctmanh)); 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 it is further

Next Conference: December 10, 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.

6/24/19

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