

Santander Bank, N.A. v Kripa, LLC
2019 NY Slip Op 32358(U)
August 5, 2019
Supreme Court, New York County
Docket Number: 159385/2018
Judge: Debra A. James
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. DEBRA A. JAMES PART IAS MOTION 59EFM

Justice

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SANTANDER BANK, N.A.,

Plaintiff,

INDEX NO. 159385/2018

MOTION DATE 07/12/2019

MOTION SEQ. NO. 002

- v -

KRIPA, LLC and DEEPAK LALWANI,

Defendants.

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62

were read on this motion to/for JUDGMENT - SUMMARY

ORDER

Upon the foregoing documents, it is

ORDERED that the motion of plaintiff for summary judgment dismissing the affirmative defenses and for summary judgment on the complaint is granted to the extent that the affirmative defenses are dismissed, and plaintiff shall have a partial summary judgment of liability as against the defendants on the complaint; and it is further

ORDERED that this matter having come on before this court on July 12, 2019, on motion of the plaintiff for summary judgment and the plaintiff having appeared by Andrew S. Muller, Esq., and the defendants having appeared by Greg Koerner, Esq., and, pursuant to CPLR 4212, the court having

on its own motion determined to consider the appointment of a referee to hear and report, and it appearing to the court that an appointment is appropriate it is now hereby;

ORDERED that a Judicial Hearing Officer ("JHO") or Special Referee shall be designated to hear and report to this court on the issue of fact, i.e., amount of damages, including the amount outstanding under the notes and guarantee and reasonable attorneys' fees; and it is further

ORDERED that the powers of the JHO/Special Referee shall not be limited beyond the limitations set forth in the CPLR: and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk (Room 119, 646-386-3028 or spref@nycourts.gov) for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this court at www.nycourts.gov/supctmanh at the "References" link), shall assign this matter at the initial appearance to an available JHO/Special Referee to hear and report as specified above; and it is further

ORDERED that counsel shall immediately consult one another and counsel for plaintiff shall, within 15 days from the date of this Order, submit to the Special Referee Clerk by fax (212-401-9186) or e-mail an Information Sheet (accessible at the

"References" link on the court's website) containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise counsel for the parties of the date fixed for the appearance of the matter upon the calendar of the Special Referees Part; and it is further

ORDERED that the parties shall appear for the reference hearing, including with all witnesses and evidence they seek to present, and shall be ready to proceed with the hearing, on the date fixed by the Special Referee Clerk for the initial appearance in the Special Referees Part, subject only to any adjournment that may be authorized by the Special Referees Part in accordance with the Rules of that Part; and it is further

ORDERED that, except as otherwise directed by the assigned JHO/Special Referee for good cause shown, the trial of the issue(s) specified above shall proceed from day to day until completion and counsel must arrange their schedules and those of their witnesses accordingly; and it is further

ORDERED that counsel shall file memoranda or other documents directed to the assigned JHO/Special Referee in accordance with the Uniform Rules of the Judicial Hearing Officers and the Special Referees (available at the "References" link on the court's website) by filing same with the New York State Courts Electronic Filing System (see Rule 2 of the Uniform Rules); and it is further

ORDERED that any motion to confirm or disaffirm the Report of the JHO/Special Referee shall be made within the time and in the manner specified in CPLR 4403 and Section 202.44 of the Uniform Rules for the Trial Courts; and it is further

ORDERED that counsel are directed to appear for oral argument on the motion to confirm or disaffirm the Special Referee's Report, after having served and filed such motion, in IAS Part 59, Room 331, 60 Centre Street, on November 14, 2019, 9:30 AM.

DECISION

By his affidavit, the individual defendant concedes that he owes money under the notes and guaranty, offers no evidence that supports his affirmative defenses (71 Clinton St. Apts., LLC v 71 Clinton, Inc., 114 AD3d 583 [1st Dept. 2014]), and raises an issue of fact only with respect to the amount due.

8/5/2019
DATE

Debra A. James
DEBRA A. JAMES, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART <input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE