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| NYCTL 2018-A Trust v Simon |
| 2019 NY Slip Op 32824(U) |
| September 24, 2019 |
| Supreme Court, New York County |
| Docket Number: 153493/2019 |
| Judge: Arlene P. Bluth |
| Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service. |
| 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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NYCTL 2018-A TRUST, THE BANK OF NEW YORK
MELLON AS COLLATERAL AGENT AND CUSTODIAN
FOR THE NYCTL 2018-A TRUST,

Plaintiff,

INDEX NO. 153493/2019

MOTION DATE 09/20/2019

MOTION SEQ. NO. 002

- v -

JOANNE SIMON AS TRUSTEE OF THE GERALD W.
ARTHUR LIVING TRUST, UNITED STATES OF AMERICA,
NEW YORK STATE DEPARTMENT OF TAXATION AND
FINANCE, DAVID CARAWAY AS CO-EXECUTOR OF THE
ESTATE OF GERALD W. ARTHUR AKA GERALD
ARTHUR, GILBERT LOVITT AS CO-EXECUTOR OF THE
ESTATE OF GERALD W. ARTHUR AKA GERALD
ARTHUR, ABRAHAM PELOTIN AS RESIDUARY LEGATEE
OF THE ESTATE OF GERALD W. ARTHUR AKA GERALD
ARTHUR, DAVID REYES, PAMELA GREEN, ZHONG
ZHEN SHI, BI HANG CHENG, ANDREW SILVERMAN,
NEW YORK CITY ENVIRONMENTAL CONTROL BOARD,
JOHN DOE NO. 1 THROUGH JOHN DOE NO. 100
INCLUSIVE, THE NAMES OF THE LAST 100
DEFENDANTS BEING FICTITIOUS, THE TRUE NAMES
OF SAID DEFENDANTS BEING UNKNOWN TO
PLAINTIFF, IT BEING INTENDED TO DESIGNATE FEE
OWNERS, TENANTS OR OCCUPANTS OF THE LIENED
PREMISES, INDIVIDUAL DEFENDANTS BE DEAD, THEIR
HEIRS AT LAW, NEXT OF KIN, DISTRIBUTEES,
EXECUTORS, ADMINISTRATORS, TRUSTEES,
COMMITTEES, DEVISEES, LEGATEES, AND THE
ASSIGNEES, LIENORS,

DECISION + ORDER ON
MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 43, 44, 45, 46, 47,
48, 49, 50, 51, 52, 53, 54, 55, 56, 57

were read on this motion to/for

EXTEND - TIME

Plaintiffs seek an extension of time to serve Abraham R. Pelotin, who plaintiffs claim is
the residuary legatee of the Estate of Gerald W. Arthur. Plaintiffs contend that they found an
address in the Philippines for Mr. Pelotin from Surrogate's Court and the Last Will and

Testament, but efforts to send papers to this location have been unsuccessful. Plaintiffs insist that they never received a return receipt from its attempted mailing and now wants the Court to permit service by publication.

Accordingly, it is hereby

ORDERED that plaintiffs may serve Abraham Pelotin by publication in the *New York Law Journal* with a notice containing a brief statement about this case and the relief sought for four consecutive weeks and such publication must be completed on or before November 19, 2019; and it is further

ORDERED that plaintiffs must mail by FedEx or UPS a copy of the Summons, Complaint and Notice of Pendency on Abraham Pelotin to B67 Lot 7-10 PH -12 NHA-BSP Riverside Tala, Caloocan City 1427 Philippines on or before October 30, 2019 (the address referred to in plaintiff's papers); and it is further

ORDERED that the caption be amended to be:

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

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NYCTL 2018-A TRUST, THE BANK OF NEW
YORK MELLON AS COLLATERAL AGENT AND
CUSTODIAN FOR THE NYCTL 2018-A TRUST,

Plaintiffs,

v.

JOANNE SIMON AS TRUSTEE OF THE GERALD
W. ARTHUR LIVING TRUST, UNITED STATES
OF AMERICA, NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE,
DAVID CARAWAY AS CO-EXECUTOR OF THE
ESTATE OF GERALD W. ARTHUR AKA GERALD
ARTHUR, GILBERT LOVITT AS CO-EXECUTOR
OF THE ESTATE OF GERALD W. ARTHUR AKA
GERALD ARTHUR, ABRAHAM PELOTIN AS
RESIDUARY LEGATEE OF THE ESTATE OF
GERALD W. ARTHUR AKA GERALD ARTHUR, IF

LIVING AND IF HE BE DEAD ANY AND ALL PERSONS UNKNOWN TO PLAINTIFFS, CLAIMING OR WHO MAY CLAIM TO HAVE AN INTEREST IN, OR GENERALLY OR SPECIFIC LIEN UPON THE REAL PROPERTY DESCRIBED IN THIS ACTION; SUCH UNKNOWN PERSONS BEING HEREIN GENERALLY DESCRIBED AND INTENDED TO BE INCLUDED IN THE FOLLOWING DESIGNATION, NAMELY THE WIFE, WIDOW, HUSBAND, WIDOWER, HEIRS AT LAW, NEXT OF KIN, DISTRIBUTEES, DESCENDENTS, EXECUTORS, ADMINISTRATORS, DEVISEES, LEGATEES, CREDITORS, TRUSTEES, COMMITTEES, LIENORS, SUCCESSORS IN INTEREST AND ASSIGNEES OF SUCH DECEASED, ANY AND ALL PERSONS DERIVING INTEREST IN OR LIEN UPON, OR TITLE TO SAID REAL PROPERTY BY, THROUGH OR UNDER THEM, AND THEIR RESPECTIVE WIVES, WIDOWS, HUSBANDS, WIDOWERS, HEIRS AT LAW, NEXT OF KIN, DISTRIBUTEES, DESCENDENTS, EXECUTORS, ADMINISTRATORS, DEVISEES, LEGATEES, CREDITORS, TRUSTEES, COMMITTEES, LIENORS, SUCCESSORS IN INTEREST, AND ASSIGNS, ALL OF WHOM AND WHOSE NAMES, EXCEPT AS STATED, ARE UNKNOWN TO PLAINTIFFS, CLAIMING DAVID REYES, PAMELA GREEN, ZHONG ZHEN SHI, BI HANG CHENG, ANDREW SILVERMAN, NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, JOHN DOE NO. 1 THROUGH JOHN DOE NO. 100 INCLUSIVE, THE NAMES OF THE LAST 100 DEFENDANTS BEING FICTITIOUS, THE TRUE NAMES OF SAID DEFENDANTS BEING UNKNOWN TO PLAINTIFF, IT BEING INTENDED TO DESIGNATE FEE OWNERS, TENANTS OR OCCUPANTS OF THE LIENED PREMISES, INDIVIDUAL DEFENDANTS BE DEAD, THEIR HEIRS AT LAW, NEXT OF KIN, DISTRIBUTEES, EXECUTORS, ADMINISTRATORS, TRUSTEES, COMMITTEES, DEVISEES, LEGATEES, AND THE ASSIGNEES, LIENORS,

Defendant(s).

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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 pursuant hereto; 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)].

Next Conference: January 7, 2020 at 2:15 p.m. If plaintiff has moved for summary judgment or a default judgment (as applicable) and for an order of reference, then no conference will be necessary. Otherwise, the parties must appear and plaintiff must explain the reason for the delay.

9/24/19
DATE


ARLENE P. BLUTH, J.S.C.

CHECK ONE:

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|-------------------------------------|----------------------------|--------------------------|--------|
| <input type="checkbox"/> | CASE DISPOSED | <input type="checkbox"/> | DENIED |
| <input checked="" type="checkbox"/> | GRANTED | | |
| <input type="checkbox"/> | SETTLE ORDER | | |
| <input type="checkbox"/> | INCLUDES TRANSFER/REASSIGN | | |

APPLICATION:

CHECK IF APPROPRIATE:

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|-------------------------------------|-----------------------|--------------------------|-----------|
| <input checked="" type="checkbox"/> | NON-FILING DEPENDENT | <input type="checkbox"/> | OTHER |
| <input type="checkbox"/> | GRANTED IN PART | | |
| <input type="checkbox"/> | SUBMIT ORDER | | |
| <input type="checkbox"/> | FIDUCIARY APPOINTMENT | <input type="checkbox"/> | REFERENCE |

HON. ARLENE P. BLUTH