

NYCTL 2018-A Trust v McMahon
2019 NY Slip Op 32978(U)
October 7, 2019
Supreme Court, New York County
Docket Number: 155242/2019
Judge: Arlene P. Bluth
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. ARLENE P. BLUTH

PART

IAS MOTION 32

Justice

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NYCTL 2018-A TRUST, AND, THE BANK OF NEW YORK
MELLON, AS COLLATERAL AGENT AND CUSTODIAN,INDEX NO. 155242/2019MOTION DATE 10/01/2019MOTION SEQ. NO. 001

Plaintiffs,

- v -

SHANE MCMAHON, MARISSA MCMAHON, BOARD OF MANAGERS OF THE COBBLESTONE LOFTS CONDOMINIUM, NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, NEW YORK CITY PARKING VIOLATIONS BUREAU, NEW YORK CITY TRANSIT AUTHORITY TRANSIT ADJUDICATION BUREAU, AND JOHN DOE 1 THROUGH JOHN DOE 100, THE NAMES OF THE LAST 100 DEFENDANTS BEING FICTITIOUS, THE TRUE NAMES OF SAID DEFENDANTS BEING UNKNOWN TO PLAINTIFFS, IT BEING INTENDED TO DESIGNATE FEE OWNERS, TENANTS OR OCCUPANTS OF THE LIENED PREMISES AND/OR, PERSONS OR, PARTIES HAVING OR CLAIMING AN INTEREST IN OR LIEN UPON THE LIENED PREMISES, IF THE AFORESAID INDIVIDUAL DEFENDANTS ARE LIVING, AND IF ANY OR ALL OF SAID INDIVIDUAL DEFENDANTS BE DEAD, THEIR HEIRS AT LAW, NEXT OF KIN, DISTRIBUTEES, EXECUTORS, ADMINISTRATORS, TRUSTEES, COMMITTEES, DEVISEES, LEGATEES, AND THE ASSIGNEES, LIENORS, CREDITORS AND SUCCESSORS IN INTEREST OF THE THEM, AND GENERALLY ALL PERSONS HAVING OR CLAIMING UNDER, BY, THROUGH, OR AGAINST THE SAID DEFENDANTS NAMED AS A CLASS, OF, ANY, RIGHT, TITLE OR INTEREST IN OR LIEN UPON THE PREMISES DESCRIBED IN THE COMPLAINT HEREIN

DECISION + ORDER ON
MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31

were read on this motion to/for

APPOINT - REFEREE

Upon the foregoing documents, it is

ORDERED that the motion for a default judgment and to appoint a referee is granted

without opposition; and it is further

ORDERED that Joseph Buono with an address of 804 Route 9, Suite 4, Fishkill, NY 12524, (845) 765-1050 is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff and to examine whether the tax parcel 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 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 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 himself or paying funds to himself 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 John Doe defendants be removed from the caption; 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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NYCTL 2018-A TRUST AND THE BANK OF NEW
YORK MELLON, AS COLLATERAL AGENT AND
CUSTODIAN,
Plaintiffs,

v.

SHANE MCMAHON, MARISSA MCMAHON,
BOARD OF MANAGERS OF THE
COBBLESTONE LOFTS CONDOMINIUM, NEW
YORK CITY ENVIRONMENTAL CONTROL
BOARD, NEW YORK CITY PARKING
VIOLATIONS BUREAU, NEW YORK CITY
TRANSIT AUTHORITY TRANSIT
ADJUDICATION BUREAU,

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 (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.

Next Conference: March 24, 2020 @ 2:15 p.m. If a motion for judgment of foreclosure and sale has been filed, plaintiff may seek an adjournment of the conference. Please consult this part's rules for information on how to obtain an adjournment. If a motion has been made, then a conference is required to explore the reasons for the delay.

DATE

10/7/19

CHECK ONE:

APPLICATION:

CHECK IF APPROPRIATE:

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☐

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

☐

DENIED

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NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

☐

OTHER

☐

REFERENCE

ARLENE P. BLUTH, J.S.C.

HON. ARLENE P. BLUTH