

NYCTL 1998-2 Trust v McMunn
2020 NY Slip Op 30754(U)
March 11, 2020
Supreme Court, New York County
Docket Number: 155919/2015
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 14

Justice

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INDEX NO. 155919/2015

NYCTL 1998-2 TRUST AND THE BANK OF NEW YORK
MELLON, AS COLLATERAL AGENT AND CUSTODIAN,

MOTION DATE _____

Plaintiff,

MOTION SEQ. NO. 004

- v -

IRENE LEE MCMUNN F/K/A IRENE LEE RIZZO-MORRIS,
AS SOLE HEIR AND DISTRIBUTE AND SPECIFIC
DEVISEE OF THE ESTATE OF ROBERT A. MCMUNN,
BOARD OF MANAGERS OF THE 210 WEST 19TH
STREET CONDOMINIUM, CACH, LLC, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD, NEW YORK CITY
PARKING VIOLATIONS BUREAU, NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE, UNITED
STATES OF AMERICA, THOMAS SHEVLIN, WELLS
FARGO BANK, NATIONAL ASSOCIATION, CHARLES
MCGRATH CONSTRUCTION INC., JOHN DOE,

**DECISION + ORDER ON
MOTION, ORDER OF
REFERENCE**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 158, 159, 160, 161,
162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182,
183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 202, 203, 204.

were read on this motion to/for JUDGMENT - SUMMARY

Upon the foregoing documents, it is

ORDERED that the motion for summary judgment against defendant Thomas Shelvin is granted without opposition and his answer and counterclaim are severed and dismissed, and his cross-claim and third-party complaint are severed from this action; and it is further

ORDERED that plaintiff is awarded a default judgment against the non-appearing defendants; and it is further

ORDERED that Roberta Ashkin with an address of 300 East 42nd Street, Floor 14, New York, NY 10017 (646) 779-8520 is hereby appointed Referee in accordance with RPAPL § 1321

to compute the amount due to Plaintiffs and to examine whether the tax parcel can be sold in parcels; and it is further

ORDERED that the Referee shall hold no hearing and take no testimony or evidence other than by written submission; the Court is the ultimate arbiter and the Referee's report is merely an advisory finding; 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 plaintiffs shall forward all necessary documents to the Referee and to defendants who have appeared in this case 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 if defendant(s) have objections, they must submit them to the referee within 14 days of the mailing of plaintiff's submissions; and include these objections to the Court if opposing the motion for a judgment of foreclosure and sale; and it is further

ORDERED the failure by defendants to submit objections to the referee shall be deemed a waiver of objections before the Court on an application for a judgment of foreclosure and sale; and it is further

ORDERED that plaintiffs 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 plaintiffs fail to meet these deadlines, then the Court may *sua sponte* vacate this order and direct plaintiffs to move again for an order of reference and the Court may *sua sponte* toll interest depending on whether the delays are due to plaintiffs' failure to move this litigation forward; and it further

ORDERED that the John Doe defendants be removed from the caption, and the caption shall read as follows:

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

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NYCTL 1998-2 TRUST AND THE BANK OF NEW YORK MELLON, AS COLLATERAL AGENT AND CUSTODIAN,,
Plaintiffs,

v.

IRENE LEE MCMUNN F/K/A IRENE LEE RIZZO-MORRIS, AS SOLE HEIR AND DISTRIBUTE AND SPECIFIC DEVISEE OF THE ESTATE OF ROBERT A. MCMUNN, BOARD OF MANAGERS OF THE 210 WEST 19TH STREET CONDOMINIUM, CACH, LLC, NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, NEW YORK CITY PARKING VIOLATIONS BUREAU, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, UNITED STATES OF AMERICA, THOMAS SHEVLIN, WELLS FARGO

BANK, NATIONAL ASSOCIATION, CHARLES
MCGRATH CONSTRUCTION INC.,

Defendant(s).

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and it is further

ORDERED that counsel for plaintiffs 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 Plaintiffs 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: July 14, 2020 @ 9:30 a.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 not been made, then a conference is required to explore the reasons for the delay.

3/11/2020

DATE

ARLENE P. BLUTH, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/> GRANTED	<input type="checkbox"/> GRANTED IN PART
	<input type="checkbox"/> DENIED	<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 checked="" type="checkbox"/> FIDUCIARY APPOINTMENT
		<input type="checkbox"/> REFERENCE