

**Capital One, N.A. v Majestic Holdings (USA), LLC**

2020 NY Slip Op 30777(U)

March 11, 2020

Supreme Court, New York County

Docket Number: 850024/2015

Judge: Arlene P. Bluth

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(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 14

Justice

-----X

INDEX NO. 850024/2015

CAPITAL ONE, N.A.,

MOTION DATE \_\_\_\_\_

Plaintiff,

MOTION SEQ. NO. 005

- v -

MAJESTIC HOLDINGS (USA), LLC, THE BOARD OF  
MANAGERS OF CIPRIANI CLUB HOMEOWNERS  
ASSOCIATION AKA THE BOARD OF MANAGERS OF  
CIPRIANI RESIDENCE AT 55 WALL CONDOMINIUM,  
ALEXANDER KNUDSEN,

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

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 005) 76, 77, 78, 79, 80, 82, 83

were read on this motion to/for JUDGMENT - SUMMARY

Upon the foregoing documents, it is

ORDERED that plaintiff's motion for a summary judgment against defendant Majestic Holdings (USA), LLC is granted without opposition and this defendant's answer and affirmative defenses are severed and dismissed; and it is further

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

ORDERED that Joseph Buono, Esq. 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 premises 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 plaintiff 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 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 defendant Alexander Knudsen is removed from the caption and the Court declines to add Chloe Smith (Last Name Refused) because a judgment cannot be entered against a fictitious entity; and it is further, and the caption shall read as follows:

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

-----X  
CAPITAL ONE, N.A

Plaintiff,

v.

MAJESTIC HOLDINGS (USA), LLC, THE BOARD  
OF MANAGERS OF CIPRIANI CLUB  
HOMEOWNERS ASSOCIATION AKA THE  
BOARD OF MANAGERS OF CIPRIANI  
RESIDENCE AT 55 WALL CONDOMINIUM,  
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 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/suptctmanh)); 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: July 14, 2020 at 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.

DATE 3/11/2020

ARLENE P. BLUTH, J.S.C. [Signature]

CHECK ONE:  CASE DISPOSED  DENIED  NON-FINAL DISPOSITION

APPLICATION:  GRANTED  OTHER

CHECK IF APPROPRIATE:  SETTLE ORDER  SUBMIT ORDER

INCLUDES TRANSFER/REASSIGN  FIDUCIARY APPOINTMENT  REFERENCE