

HSBC v Assanah

2025 NY Slip Op 32716(U)

January 17, 2025

Supreme Court, Kings County

Docket Number: Index No. 16689/09

Judge: Derefim B Neckles

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.

At an IAS Term, Part FSMP, of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 17th day of January 2025.

P R E S E N T:

HON. DEREKIM B NECKLES,
A.J.S.C.

Index No.: 16689/09

_____ x

HSBC,

Plaintiff,

DECISION AND ORDER
MOT. SEQ 3

-against-

VANESSA ASSANAH et al,

Defendant,

_____ x

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

Papers	Numbered
Motion (MS 3)	<u>1</u>
Supplemental Aff	<u>2</u>
Reply	—

Upon the foregoing cited papers, the Decision/Order on this Motion is as follows:

Plaintiff moves for rejection of the report of the referee appointed to calculate the amount due to it. While the motion remains unopposed, the Court issues this decision rather than sign the proposed order as Plaintiff appears to be operating under the misapprehension that it can resubmit to the referee as many times as necessary until he comes around to its position.

That is not so. The referee is correct that Plaintiff needed to provide all of the evidence that it wished to have considered and could not proffer additional evidence after he issued his report. Though Plaintiff accurately notes that a referee may request clarification or additional documentation, there was no obligation on his part to do so. An order of reference in a

foreclosure action delegates the “inquest on damages” to an outside attorney but does not deputize him to assist Plaintiff in making its case. As such, the Court agrees with the referee’s decision to reject the supplemental documentation proffered by Plaintiff’s counsel.

Plaintiff is correct, however, that the referee does not appear to have properly considered the records appended to the Lopez Affidavit as Exhibit E – which were provided to him as part of Plaintiff’s original submission. Therein, a portion of the requested escrow advances appear to be substantiated and it is unclear why the referee entirely declined to include any award for those outlays.

Motion granted to the extent that the referee’s report is rejected and the referee is directed to consider the original, but not the supplemental, evidence proffered by Plaintiff and issue an updated report which, if escrows are not awarded, explains his basis for declining to do so.

This constitutes the decision and order of the Court.

ENTER:



Hon. Derefim B Neckles AJSC

KINGS COUNTY CLERK
FILED
2025 APR 21 A 9:13