

**Citibank, N.A. v Healey**

2025 NY Slip Op 33675(U)

October 1, 2025

Supreme Court, New York County

Docket Number: Index No. 850221/2025

Judge: Francis A. Kahn III

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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. FRANCIS A. KAHN, III PART 32

Justice

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INDEX NO. 850221/2025

CITIBANK, N.A., NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE OF NEW RESIDENTIAL MORTGAGE LOAN TRUST 2019-RPL3,

MOTION DATE

MOTION SEQ. NO. 001

Plaintiff,

- v -

CHRISTINE HEALEY, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, COMMISSIONER OF JURORS, BOARD OF MANAGERS OF THE 435 EAST 117TH STREET CONDOMINIUM, ROECO, LLC, JOHN DOE #1 THROUGH JOHN DOE #12, THE LAST TWELVE NAMES BEING FICTITIOUS AND UNKNOWN TO PLAINTIFF, THE PERSONS OR PARTIES INTENDED BEING THE TENANTS, OCCUPANTS, PERSONS OR CORPORATIONS, IF ANY, HAVING OR CLAIMING AN INTEREST IN OR LIEN UPON THE PREMISES

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57

were read on this motion to/for JUDGMENT - DEFAULT

Upon the foregoing documents, the motion is determined as follows:

In this action Plaintiff seeks to foreclose on a mortgage encumbering real property located at 435 E 117TH Street, APT 3, New York, New York. The mortgage, dated June 24, 2014, was given by Defendant Christine Healey ("Healey") to Plaintiff's assignor and secures a loan with an original principal amount of \$528,827.00 which is memorialized by a note of the same date. All Defendants defaulted in answering. Now, Plaintiff moves for summary judgment against all Defendants, for an order of reference and to amend the caption. Defendant Board of Managers of 435 East 117th Street Condominium ("Board") opposes the motion and cross-moves for a conference pursuant to CPLR §3408. Plaintiff opposes the cross-motion.

As to Plaintiff's motion, "[a]n applicant for a default judgment against a defendant must submit proof of service of the summons and complaint, proof of the facts constituting the claim, and proof of the defaulting defendant's failure to answer or appear" (Deutsche Bank Natl. Trust Co. v Silverman, 178 AD3d 898, 899 [2d Dept 2019]). A plaintiff needs "only [to] allege enough facts to enable a court to determine that a viable cause of action exists" (Woodson v Mendon Leasing Corp., 100 NY2d 62, 71 [2003]). Plaintiff established prima facie its entitlement to a default judgment against the Defendants by submitting proof, via the affidavit of Mary Monta Adrovel, a Document Verification Specialist for

NewRez D/B/A Shellpoint Mortgage Servicing, as servicer for Plaintiff. Annexed to motion was a copy of a power of attorney demonstrating NewRez's authority to act for Plaintiff (*see eg Deutsche Bank Natl Trust Co v Silverman*, 178 AD3d 898 [2d Dept 2019]). The affidavit and supporting evidence demonstrated the mortgage, the unpaid note, proof of service on each Defendant and that each failed to timely appear or answer (*see CPLR §3215[f]; SRMOF II 2012-I Trust v Tella*, 139 AD3d 599, 600 [1<sup>st</sup> Dept 2016]; *U.S. Bank Natl. Assn. v Wolnerman*, 135 AD3d 850 [2d Dept 2016]; *see also Deutsche Bank Natl. Trust Co. v Silverman*, supra).

“To defeat a facially adequate CPLR 3215 motion, a defendant must show either that there was no default, or that it has a reasonable excuse for its delay and a potentially meritorious defense” (*Deutsche Bank Natl. Trust Co. v Silverman*, supra at 901 [2d Dept 2020], *citing US Bank N.A. v Dorestant*, 131 AD3d 467, 470 [2d Dept 2015]; *see also CPLR §5015[a][1]; Bear Stern-Asset-Backed Sec. I Trust 2006 v Ceesay*, 180 AD3d 504 [1st Dept 2020]). Similarly, where an extension of time to answer is sought under CPLR 3012[d], a court, upon such terms as may be just (*see Emigrant Bank v Rosabianca*, 156 AD3d 468, 472 [1<sup>st</sup> Dept 2017]), upon showing “a reasonable excuse for the delay and demonstrate a potentially meritorious defense to the action” (*Bank of N.Y. Mellon v Tedesco*, 174 AD3d 490, 491 [2d Dept 2019]). When exercising its discretion in determining a motion under this section “a court should consider such relevant factors as the extent of the delay, prejudice or lack of prejudice to the opposing party as well as the strong public policy in favor of resolving cases on the merits (*Orwell Bldg. Corp. v Bessaha*, 5 AD3d 573, 574 [2d Dept 2004][internal citations omitted]).

In opposition, Defendant Board proffered no excuse for its default in appearing. Indeed, it has not even sought that relief in its cross-motion. As such, Board is precluded from proffering any non-jurisdictional defense like CPLR §3408 (*see Deutsche Bank NA v O'Connor*, 223 AD3d 872 [2d Dept 2024]). Even if considered on its merits, this defense is not meritorious. “CPLR §3408 only mandates a settlement conference in a residential foreclosure action involving a ‘home loan’ as defined by RPAPL §1304, and when the ‘defendant is a resident of the property subject to foreclosure’” as defined in CPLR §3408[a][1] (*Richlew Real Estate Venture v Grant* 131 AD3d 1223 [2d Dept 2015]; *see also CPLR §3408; JP Morgan Chase Bank, N.A. v Venture*, 148 AD3d 1269 [3d Dept 2017]). Contrary to Defendant's argument, the Board is not a person defined under RPAPL §1304, was not a resident of the property when the action was commenced and is not entitled to a CPLR §3408 conference (*see Bernstein v Dubrovsky*, 169 AD3d 410 [1st Dept 2019]; *Independence Bank v Valentine*, 113 AD3d 62 [2d Dept 2013]). In any event, the failure to conduct a settlement conference pursuant to CPLR 3408, even if required, is not grounds for vacatur of the default “because failure to conduct a settlement conference does not deprive the court of subject-matter jurisdiction” (*see Real Time Resolutions, Inc. v Chandler*, 239 AD3d 905 [2d Dept 2025]).

The branch of Plaintiff's motion to amend the caption is granted (*see generally CPLR §3025; JP Morgan Chase Bank, N.A. v Laszio*, 169 AD3d 885, 887 [2d Dept 2019]).

Accordingly, it is

ORDERED that the motion for a default judgment against the non-appearing parties and the appointment of a referee to compute is granted; and it is further

ORDERED that the cross-motion by Defendant Board is denied in its entirety; and it is further

ORDERED that **Paul Sklar, Esq., 551 5th Avenue, Ste 2200, New York, New York 10176-0001- (212) 972-8845** is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff and examine whether the tax parcel can be sold in parcels; and it is further

ORDERED that in the discretion of the Referee, a hearing may be held, and testimony taken; 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 if the Referee holds a hearing or is required to perform other significant services in issuing the report, the Referee may seek additional compensation at the Referee's usual and customary hourly rate; 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 to substitute MR. MANDO (FIRST NAME REFUSED) in place for "JOHN DOE#1" and to strike from the caption the names of "JOHN DOE#2" through "JOHN DOE#12" as party defendants and the caption of this action be amended to reflect the removal of "John Doe #2" through "John Doe #12"; 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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CITIBANK, N.A., NOT IN ITS INDIVIDUAL  
CAPACITY BUT SOLELY AS OWNER TRUSTEE  
OF NEW RESIDENTIAL MORTGAGE LOAN  
TRUST 2019-RPL3

Plaintiff,

-against-

CHRISTINE HEALEY; NEW YORK STATE DEPARTMENT OF  
TAXATION AND FINANCE; COMMISSIONER OF JURORS  
BOARD OF MANAGERS OF THE 435 EAST 117TH STREET  
CONDOMINIUM ROECO, LLC; MR. MANDO (FIRST NAME REFUSED)

Defendants.  
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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/suptctmanh](http://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.

All parties are to appear for a virtual conference via Microsoft Teams on **February 4, 2026, at 10:00 a.m.** If a motion for judgment of foreclosure and sale has been filed Plaintiff may contact the Part Clerk ([SFC-Part32-Clerk@nycourts.gov](mailto:SFC-Part32-Clerk@nycourts.gov)) in writing to request that the conference be cancelled. If a motion has not been made, then a conference is required to explore the reasons for the delay.

10/1/2025

DATE

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

FRANCIS KAHN, III, A.J.S.C.

**HON. FRANCIS A. KAHN III**  
J.S.C.