

**Maynard v Almuradi**

2025 NY Slip Op 34428(U)

July 21, 2025

Supreme Court, Kings County

Docket Number: Index No. 507596/2023

Judge: Francois A. Rivera

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At an IAS Term, Part 52 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 21st day of July 2025

HONORABLE FRANCOIS A. RIVERA

-----X  
SHAUNDER MAYNARD,

Plaintiff,

- against -

ABDULLA ALMURADI, PATRESHA WALKER, ISKYO ARONOV AKA ISAAC ARONOV, JAMES M CAFFREY, ESQ., US BANK NATIONAL ASSOCIATION, as trustee for Citigroup Mortgage Loan Trust, Inc. 2006-HE3, Asset Backed Pass-Through Certificates Series 2006-H3-3, NEW CENTURY MORTGAGE CORPORATION, FRENKEL LAMBERT WEISS, WEISMAN AND GORDAN, LLP, and JOHN DOE(S) (being fictitious, the names unknown to plaintiff intended to be investors and all other persons, entities, assignees, successors, creditors, trustees, predecessors in interest and/or entities claiming to have an interest in or lien upon the subject premise)

Defendants.

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Recitation in accordance with CPLR 2219 (a) of the papers considered on the notice of cross-motion filed on October 24, 2024, under motion sequence number six, by US Bank National Association, as Trustee For Citigroup Mortgage Loan Trust, Inc. 2006-HE3, Asset Backed Pass-Through Certificates Series 2006-HE3 (hereinafter the defendant or movant) for an order pursuant to CPLR 6514 canceling the notice of pendency. The motion is opposed.

- Notice of cross-motion
- Affirmation in support

**DECISION & ORDER**

Index No.: 507596/2023

Fully Submitted: 5/23/2025

Ms. Seq. No.: 6

- Affidavit in opposition
- Affirmation in reply

## BACKGROUND

The defendant commenced a mortgage foreclosure action under index number 28641/2007 (hereinafter “foreclosure action”) to foreclose a mortgage on real property commonly known as 1170 East 42nd Street, Brooklyn, NY 11210 (hereinafter “subject property”). No defendant appeared or answered the complaint. At one point, the borrower-mortgagor and defendant Patresha Walker and Municipal Credit Union filed notices of appearance, both effectively waiving all defenses and conceding all allegations in the complaint as well as the defendant’s right to judgment of foreclosure and sale (*see Muhlhahn v Triple Cee Bar and Rest. Supply Co.*, 133 AD2d 996, 997 [3d Dept 1987], citing *Rokina Opt. Co. Inc. v Camera King*, 63 NY2d 728, 730 [1984]). After defendant had obtained a default judgment and an order of reference against all defendants and had filed its motion for Judgment of Foreclosure and Sale (hereinafter “JFS”), plaintiff Shaunder Maynard filed a motion for leave to intervene and serve an answer to the summons and complaint.

The Court denied plaintiff’s motion due to plaintiff’s failure to show an actual interest in the subject premises and a failure to attach a proposed pleading as required by statute. The plaintiff did not appeal the decision. The defendant obtained the final JFS dated March 1, 2018, and entered April 2, 2018. Plaintiff filed another motion for leave to intervene and to vacate the JFS, and to enjoin the defendant from transferring the

subject property or evicting the plaintiff. The Court, again, denied the motion. Plaintiff did not appeal the denial of her second intervention motion.

Following COVID-19 shutdowns, stays, moratoriums, and delays, the foreclosure auction was ultimately set for March 16, 2023. The plaintiff filed the instant action on March 12, 2023, with an emergency order to show cause application seeking to stay the foreclosure auction, primarily alleging that the assignment of the mortgage to the defendant was fraudulent and unauthorized and that the defendant lacked standing and authority to commence and obtain judgment in the foreclosure action. The Court declined to sign the proposed order to show cause. The Appellate Division, Second Department also declined to sign the proposed order to show cause. Accordingly, the foreclosure auction proceeded on March 16, 2023. The defendant was the winning bidder at the auction, and the referee deeded the subject property to the defendant by Referee's Deed, dated April 18, 2023, and recorded May 1, 2023. The defendant then brought a motion to dismiss for reasons, including without limitation, that there can be no good faith dispute that defendant is the legal and record owner of the subject property and that this Court has already made binding determinations, as a matter of law, that the defendant was entitled to the final JFS, solidifying and ending all possible disputes over defendant's right to foreclose and to judgment in the foreclosure action and that plaintiff has no actual interest in the subject property.

On December 1, 2023, the defendant filed a motion under sequence number four, for an order pursuant to CPLR 3211 (a) and 6514, dismissing the plaintiff's complaint as asserted against the defendant and canceling the Notice of Pendency.

On April 4, 2024, the plaintiff did not appear for oral argument; the Court noted the plaintiff's absence and dismissed the action as abandoned for failure to appear to oppose the defendant's motion to dismiss it (*see Elam v Ryder Sys., Inc.*, 176 AD3d 675, 676 [2d Dept 2019], citing *Pita v Roosevelt Union Free Sch. Dist.*, 156 AD3d 833, 835 [2d Dept 2017]). The order has not been vacated or stayed.

### LAW AND APPLICATION

CPLR 6514 (a) provides, in pertinent part, that a notice of pendency must be canceled if “if the action has been settled, discontinued, or abated; or if the time to appeal from a final judgment against the plaintiff has expired; or if enforcement of a final judgment against the plaintiff has not been stayed pursuant to section 5519.”

Here, the defendant has correctly argued that because the plaintiff's complaint has been dismissed as against the defendant by the Court's order dated April 4, 2024, the notice of pendency should be canceled.

### CONCLUSION

The cross motion by the defendant US Bank National Association, as Trustee For Citigroup Mortgage Loan Trust, Inc. 2006-HE3, Asset Backed Pass-Through Certificates Series 2006-HE3, for an order pursuant to CPLR 6514 canceling the Notice of Pendency is granted.

The foregoing constitutes the decision and order of this Court.

ENTER:

  
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J.S.C.