

<b>Wells Fargo Bank, N.A. v Peter</b>
2026 NY Slip Op 30218(U)
January 12, 2026
Supreme Court, Kings County
Docket Number: Index No. 514712/2022
Judge: Carolyn Walker-Diallo
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At an IAS Term, Part FRP4, of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 320 Jay Street, Brooklyn, New York, on the 12th day of January 2026.

PRESENT:

HON. CAROLYN WALKER-DIALLO, J.S.C.

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WELLS FARGO BANK, N.A.,

Plaintiff,

**DECISION AND ORDER**

*-against-*

MARY PETER a/k/a MARY T. PETER, et al.,

Defendants.

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

Order to Show Cause:

**Papers**

Order to Show Cause

Affirmation in Opposition

**Numbered**

NYSCEF Doc. Nos. 92-96, 98

NYSCEF Doc. No. 102

Motion Sequence #4

Upon the foregoing cited papers, the Decision/Order on this Order to Show Cause is as follows:

Mary Peter (“Defendant”) moves for an Order: (1) cancelling the foreclosure auction scheduled for April 24, 2025; (2) staying any further sales pending a motion to extend the time to conduct a foreclosure sale; and (3) vacating the Judgment of Foreclosure and Sale and directing Plaintiff to recalculate and resubmit the referee’s report. Plaintiff submits opposition papers. The

order to show cause was signed on April 24, 2025 by this Court, and an interim stay was issued, thereby cancelling the scheduled sale. *See* Order of the Hon. Carolyn Walker-Diallo, dated April 24, 2025, NYSCEF Doc. No. 98. For the reasons set forth below, Defendant's Order to Show Cause is DENIED.

#### DISCUSSION

“A movant seeking to vacate a default judgment must establish one of the statutory grounds under CPLR 5015 (a), which include, inter alia, excusable default, newly discovered evidence, and fraud, misrepresentation, or other misconduct by an adverse party. In addition, a court may vacate its own judgment for sufficient reason and in the interests of substantial justice. It is the movant's burden to show that the prior order should be set aside by submission of sufficient evidence supporting the grant of such relief.” *Mtge. Elec. Registration Sys., Inc. v. Emile Dort-Relus*, 107 A.D.3d 861, 862 (2d Dep't 2013) (Internal quotations and citations omitted). “While even after expiration of the one-year limitations period set forth in CPLR 5015, a court may vacate its own judgment for sufficient reason and in the interests of substantial justice, there is no basis for an extension of the one-year period in the exercise of discretion, [where] the [movant] fail[s] to demonstrate a reasonable excuse for [its] lengthy delay in moving to vacate [the order or judgment].” *U.S. Bank N.A. v. Tait*, 234 A.D.3d 889, 890-91 (2d Dep't 2025) (Internal quotations and citations omitted).

“However, [a] court's inherent power to exercise control over its judgments is not plenary, and should be resorted to only to relieve a party from judgments taken through [fraud], mistake, inadvertence, surprise or excusable neglect. A court should only exercise its discretionary authority to vacate a judgment in the interests of substantial justice where unique or unusual circumstances . . . warrant such action.” *Deutsche Bank Natl. Trust Co. v. Neuman*, 214 A.D.3d

952, 953-54 (2d Dep't 2023) (Internal quotations and citations omitted); *see Bank of N.Y. Mellon v. Laskin*, 239 A.D.3d 807 (2d Dep't 2025).

Plaintiff opposes the relief sought by Defendant, arguing that the referee's computation and supporting affidavit were properly admitted under CPLR 4518 (a) and that Defendant does not seek to vacate her default, does not provide a reasonable excuse or meritorious defense, and the Judgment of Foreclosure and Sale is final as to all issues that could have been raised.

Here, Defendant does not allege or establish any unusual circumstances, fraud, mistake, inadvertence, surprise, or excusable neglect. Nor is the lengthy delay in seeking such relief provided. Therefore, Defendant's motion to vacate the Judgment of Foreclosure and Sale is denied. Under RPAPL 1351, the Judgment of Foreclosure and Sale shall direct that the sale of the property be within 90 days of the judgment date. At this juncture, Plaintiff has not sought an extension from the Court to schedule a sale. Finally, Defendant's further contentions have been considered and determined to be without merit.

#### CONCLUSION

Accordingly, Defendant's Order to Show Cause is DENIED. As such, all stays are lifted. The Court has considered the additional contentions of the parties not specifically addressed herein. To the extent that any relief requested was not addressed by the Court, it is hereby DENIED. Defendant shall serve notice of entry of this order within ten (10) days of the upload of the order to NYSCEF upon Plaintiff, Defendants, and all parties who have appeared in this action, with parties not participating in e-filing to be noticed via first-class mail.

This constitutes the Decision and Order of the Court.

ENTER:



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Hon. Carolyn Walker-Diallo, J.S.C.