UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

CIT BANK, N.A., formerly known as ONEWEST BANK, NA,

Plaintiff,

ORDER ADOPTING R & R

14-CV-3234(DRH)(GRB)

-against-

FRANK A. BIANCHINI, INDIVIDUALLY AND AS SURVIVING JOINT TENANT WITH RIGHT OF SURVIVORSHIP OF GAIL A. SCAMONI; BISHOPS GATE RESIDENTIAL MORTGAGE TRUST; JOHN DOE (being fictitious and unknown to Plaintiff, intended to be tenants, occupants, persons or corporations having or claiming an interest in or lien encumbering the property described in the Complaint or their heirs at law, distributees, executors, administrators, trustees, guardians, assignees, creditors, or successors.),

Defendants.	
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## **HURLEY, Senior District Judge:**

Plaintiff OneWest Bank, NA ("Plaintiff") commenced this diversity action against defendants pursuant to New York Real Property Actions and Proceeding Law Article 13 to foreclose a mortgage encumbering 535 Ashroken Avenue, Northport, New York. Defendants failed to answer the complaint and Plaintiff moved for a default judgment. By Order dated March 26, 2015 the Court referred the motion to U.S. Magistrate Judge Gary R. Brown, pursuant to 28 U.S.C. § 636(b)(3), for a report and recommendation. On February 22, 2016, Judge Brown issued a Report and Recommendation that (1) the motion to amend the caption to dismiss John Doe as a party defendant be granted; (2) the motion for default judgment be granted; and (3) the judgment of foreclosure and sale, together with any award for principal, advances, interest,

attorneys' fees and costs be denied without prejudice to renewal following submission of

requisite documentation, which recommendation was adopted by this Court on March 15, 2016.

Plaintiff then filed a renewed motion for judgment of foreclosure and sale, which motion was

again referred to Magistrate Judge Brown. On February 28, 2017 Judge Brown issued a Report

and Recommendation and a Supplement thereto (collectively, the "2017 R & R") recommending

that (1) a Judgment of Foreclosure and Sale be entered in a form substantially similar to the

proposed judgment of foreclosure and sale submitted by plaintiff, including (a) that the lien of

defendant Bishops Gate Residential Mortgage Trust is invalid and extinguished and (b) setting

principal damages in the amount of \$1,102,805.55, attorneys' fees in the amount of \$3,500.00

and costs of \$400.00 for a total of \$1,106705.50; and (2) the Clerk of the County of Suffolk be

directed to index the Mortgage in a form substantially similar to the corrected property

description set forth in the proposed judgment of foreclosure and sale. More than fourteen days

have elapsed since service of the R&R and no objections have been filed.

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the

Report and Recommendation for clear error, and finding none, now concurs in both its reasoning

and its result. Accordingly, this Court adopts the 2017 R&R of Judge Brown as if set forth herein

and will on this date execute a Judgment of Foreclosure and Sale substantially in the form

proposed by plaintiff.

SO ORDERED.

Dated: Central Islip, N.Y.

March 22, 2017

/s/ Denis R. Hurley

Denis R. Hurley,

United States District Judge

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