

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ONEWEST BANK, N.A.,

Plaintiff,

-against-

ORDER

14 CV 5529 (DRH) (AKT)

JANET R. DENHAM, LLOYD DENHAM,
and EDWARD BRYAN,

Defendants.

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HURLEY, Senior District Judge:

OneWest Bank, N.A. (“plaintiff” or “OneWest”) commenced this action pursuant to Article 13 of the New York Real Property Actions and Proceeding Law (“RPAPL”) against Defendants Janet R. Denham, Lloyd Denham, and Edward Bryan (“defendants”) to foreclose a mortgage encumbering 223 Meredith Lane, West Hempstead, New York 11552, together with the land, buildings, and other improvements located on the property (“the Property”) and also to have the Property description which appears in the mortgage reformed in order to correct an error. On January 13, 2015, the Clerk of the Court issued a Certificate of Default against the Defendants, pursuant to Fed. R. Civ. P. 55(a). Plaintiff subsequently filed a motion for an order granting a Judgment of Foreclosure and Sale against the Defendants, pursuant to Fed. R. Civ. P. 55(b)(2), which the Court referred to Magistrate Judge A. Kathleen Tomlinson on February 3, 2015. On August 31, 2015, Judge Tomlinson issued a Report and Recommendation recommending that “a default judgment be entered against the Defendants,” (R & R at 13), that “Defendant Edward Bryan’s interest in the Property be foreclosed,” (*id.* at 14), “that the relief Plaintiff seeks by way of an Order reforming the Property description” be granted (*id.* at 13), and that plaintiff be awarded the following damages:

- (1) Principal in the amount of \$599,149.38, with accrued interest of \$22,997.35 through February 1, 2015 and \$32.85 in interest per diem thereafter until entry of judgment;
- (2) Attorney's fees in the amount of \$3,222.50;
- (3) \$297.00 for the Property Inspections/Preservation;
- (4) \$945.00 for the Broker Price Opinion;
- (5) \$47,646.04 for escrow advances; and
- (6) \$1,492.10 in costs.

Additionally, Judge Tomlinson recommended that "the Property be foreclosed and sold with the proceeds to be applied to the amount owed on the Note, including the miscellaneous fees." (*Id.* at 25.)

Over fourteen days have passed since defendants were served with a copy of the Report & Recommendation, and no party has filed any objections to the Report and Recommendation. Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 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, the Court adopts Judge Tomlinson's August 31, 2015 Report and Recommendation as set forth therein. Plaintiff shall file a proposed judgment in accordance with Judge Tomlinson's Report and Recommendation within ten (10) days of this Order.

SO ORDERED.

Dated: Central Islip, New York
September 21, 2015

/s/
Denis R. Hurley
United States District Judge