

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

---

**NATIONSTAR MORTGAGE LLC**

**Plaintiff,**

**v.**

**5:16-CV-280  
(FJS/TWD)**

**JOHN J. LAFFREY, KATHRYN A.  
LAFFREY, and AMALGAMATED BANK,**

**Defendants.**

---

**APPEARANCES**

**OF COUNSEL**

**GROSS POLOWY LLC**  
1775 Wehrle Drive, Suite 100  
Williamsville, New York 14221  
- and -  
900 Merchants Concourse  
Suite 412  
Westbury, New York 11590  
Attorneys for Plaintiff

**AMY E. POLOWY, ESQ.  
STEPHEN J. VARGAS, ESQ.**

**JOHN J. LAFFREY**  
Defendant

**NO APPEARANCE**

**KATHRYN A. LAFFREY**  
Defendant

**NO APPEARANCE**

**SHAPIRO, DICARO & BARAK, LLC**  
175 Mile Crossing Boulevard  
Rochester, New York 14624  
Attorneys for Defendant Amalgamated  
Bank

**ELLIS M. OSTER, ESQ.**

**SCULLIN, Senior Judge**

**ORDER**

Pending before the Court is Plaintiff's motion to dismiss the complaint voluntarily pursuant

to Rule 41(a) of the Federal Rules of Civil Procedure, vacate the Judgment of Foreclosure and Sale pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, and cancel the Notice of Pendency pursuant to New York Civil Practice Law and Rules § 6514(a). *See* Dkt. No. 20.

Plaintiff commenced this action on March 8, 2016. *See* Dkt. No. 1. Although Plaintiff properly served Defendants, they failed to answer, appear or move with respect to the complaint. Thereafter, on April 21, 2016, Plaintiff moved for entry of a Notice of Default, *see* Dkt. No. 10, which the Clerk of the Court entered on April 26, 2016, *see* Dkt. No. 11. On February 7, 2017, this Court granted Plaintiff's motion for an Order and Judgment of Foreclosure and Sale pursuant to New York Real Property Actions and Procedures Law § 1351. *See* Dkt. No. 16. Subsequently, Plaintiff and Defendants settled this action through a "deed in lieu of foreclosure." *See* Dkt. No. 20-1 at ¶ 3.

In light of this settlement, the Court hereby

**ORDERS** that Plaintiff's motion is **GRANTED**; and the Court further

**ORDERS** that the Judgment of Foreclosure and Sale entered on February 7, 2017, *see* Dkt. No. 16, is **VACATED** pursuant to Rule 60(b) of the Federal Rules of Civil Procedure; and the Court further

**ORDERS** that the Referee, Thomas Robertson, Esq., whom the Court appointed to sell the property, pursuant to the Order and Judgment of Foreclosure and Sale is **DISCHARGED and relieved of any and all obligations and requirements thereunder**; and the Court further

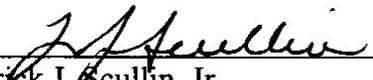
**ORDERS** that this action is voluntarily **DISMISSED** pursuant to Rule 41 of the Federal Rules of Civil Procedure; and the Court further

**ORDERS** that, pursuant to New York Civil Practice Law and Rules § 6514(a), the County

Clerk of the County of Onondaga is **DIRECTED**, upon the payment of proper fees, if any, to cancel and discharge the Notice of Pendency filed in the Office of the Clerk of the County of Onondaga on March 16, 2016, and in the Office of the Clerk of the United States District Court, Northern District of New York, on March 28, 2016, and any other filing against property known as **8453 Transit Lane, Baldwinsville, New York 13027**, and said Clerk is hereby **DIRECTED** to enter upon the margin of the record of the same a Notice of Cancellation referring to this Order.

**IT IS SO ORDERED.**

Dated: March 27, 2017  
Syracuse, New York

  
\_\_\_\_\_  
Frederick J. Scullin, Jr.  
Senior United States District Judge