

<b>CIT Bank, N.A. v O'Hara</b>
2019 NY Slip Op 31077(U)
April 15, 2019
Supreme Court, New York County
Docket Number: 850377/2015
Judge: Arlene P. Bluth
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT:** HON. ARLENE P. BLUTH PART IAS MOTION 32

*Justice*

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CIT BANK, N.A.,

Plaintiff,

- v -

MARIAN O'HARA, BOARD OF MANAGERS OF THE PARC  
VENDOME CONDOMINIUM, SECRETARY OF HOUSING AND  
URBAN DEVELOPMENT, JOHN DOE #1 through JOHN DOE #12,

Defendants.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 002) 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 72

were read on this motion to/for

JUDGMENT - SUMMARY

**DECISION AND ORDER**

Upon the Summons, Complaint, and Notice of Pendency filed in this action on December 4, 2015, the Notice of Motion dated April 6, 2018, together with all the papers filed in support of the motion and the exhibits annexed thereto, and all prior papers filed in this action and prior proceedings had herein; and

Upon proof that each of the defendants herein has been duly served with the Summons and Complaint in this action and required notices;

And it appearing to the satisfaction of this court that this action was brought to foreclose a mortgage on real property located at 340 West 57<sup>th</sup> Street, Unit 9-E, New York, NY 10019, it is hereby

ORDERED that the branch of plaintiff's motion for summary judgment against defendants Marian O'Hara and defendant the Board of Managers of the Pac Vendome Condominium and the branch of the motion for a default judgment against the remaining defendants is granted without opposition; and it is further

ORDERED that the counterclaims asserted by defendant O'Hara are severed and dismissed; and it is further

ORDERED that Shari S. Laskowitz, Esq. 212-907-9696  
Ingram Yuzek et al. 250 PARK AVE 6<sup>th</sup> floor NY NY 10177 is hereby appointed

Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff for principal, interest and other disbursements advanced as provided for in the note and mortgage upon which this action is brought, and to examine whether the mortgaged property can be sold in parcels; and it is further

ORDERED that the Referee may take testimony pursuant to RPAPL § 1321; and it is further

ORDERED that by accepting this appointment the Referee certifies that she/he is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2 (c) ("Disqualifications from appointment"), and §36.2 (d) ("Limitations on appointments based upon compensation"), and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED that, pursuant to CPLR 8003(a), and in the discretion of the court, a fee of \$350 shall be paid to the Referee for the computation of the amount due and upon the filing of her/his report and the Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR 8003(b); and it is further;

ORDERED that the Referee is prohibited from accepting or retaining any funds for

herself/himself or paying funds to him/herself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED that plaintiff shall forward all necessary documents to the Referee within 30 days of the date of this order and shall promptly respond to every inquiry made by the referee (promptly means within two business days); and it is further

ORDERED that plaintiff must bring a motion for a judgment of foreclosure and sale within 30 days of receipt of the referee's report; and it is further

ORDERED that if plaintiff fails to meet these deadlines, then the Court may sua sponte vacate this order and direct plaintiff to move again for an order of reference and the Court may sua sponte toll interest depending on whether the delays are due to plaintiff's failure to move this litigation forward; and it further

ORDERED that the caption be amended to remove John Doe #1 through John Doe #12 as defendants; and it is further

ORDERED that the caption shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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CIT BANK, N.A.,

Plaintiff,

v.

MARIAN O'HARA, BOARD OF MANAGERS  
OF THE PARC VENDOME CONDOMINIUM,  
SECRETARY OF HOUSING AND URBAN  
DEVELOPMENT,

Defendant(s).  
-----X

and it is further

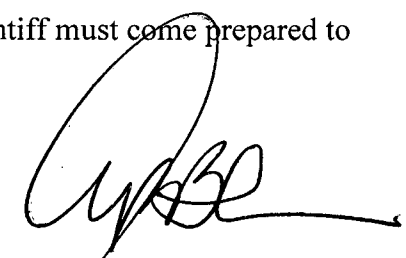
ORDERED that counsel for plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the parties being removed; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website at the address (ww.nycourts.gov/supctmanh)).

ORDERED that Plaintiff shall serve a copy of this Order with notice of entry on all parties and persons entitled to notice, including the Referee appointed herein <sup>within 20 days of this order</sup> and effectuate service of the <sup>being uploaded to NYSCEF.</sup> ~~summons and complaint on the parties added to the caption pursuant to the CPLR.~~

Next Conference: July 30, 2019 @ 2:15 p.m. If plaintiff has moved for a judgment of foreclosure and sale before the conference, then plaintiff can seek an adjournment. Please consult the part's rules for information about how to obtain an adjournment. An appearance is required if a motion for a JFS has not been made; counsel appearing for plaintiff must come prepared to explain the delay or interest may be tolled.

4.15.19  
DATE

  
ARLENE P. BLUTH, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
APPLICATION:	<input checked="" type="checkbox"/> GRANTED	<input type="checkbox"/> DENIED
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> GRANTED IN PART
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> SUBMIT ORDER
		<input type="checkbox"/> FIDUCIARY APPOINTMENT
		<input type="checkbox"/> OTHER
		<input type="checkbox"/> REFERENCE