

HNY Club Suites Owners Assn. Inc. v Ferrer
2019 NY Slip Op 33226(U)
October 28, 2019
Supreme Court, New York County
Docket Number: 850084/2019
Judge: Arlene P. Bluth
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

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

PRESENT: <u>HON. ARLENE P. BLUTH</u>	PART	IAS MOTION 32
<i>Justice</i>		
-----X	INDEX NO.	<u>850084/2019</u>
HNY CLUB SUITES OWNERS ASSOCIATION INC., BY AND THROUGH ITS BOARD OF DIRECTORS,	MOTION DATE	<u>10/24/2019</u>
Plaintiff,	MOTION SEQ. NO.	<u>001</u>

- v -

ELIZABETH FERRER, NYH CONDOMINIUM, JOHN DOE 1
TO JOHN DOE 25, SAID NAMES BEING FICTITIOUS, THE
PERSONS OR PARTIES INTENDED BEING THE
PERSONS, PARTIES, CORPORATIONS OR ENTITIES, IF
ANY, HAVING OR CLAIMING AN INTEREST IN OR LIEN
UPON THE MORTGAGED PREMISES DESCRIBED IN
THE COMPLAINT

**DECISION + ORDER ON
MOTION, ORDER OF
REFERENCE**

Defendant.

The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 8, 9, 10, 11, 12, 13, 14, 15, 16

were read on this motion to/for ORDER OF REFERENCE

Upon the foregoing documents, it is hereby

ORDERED that the motion for default judgment by plaintiff is granted without
opposition; and it is further

ORDERED that *Elaine Shay, Esq.*

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 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 the John Doe 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

-----X
HNY CLUB SUITES OWNERS ASSOCIATION
INC., BY AND THROUGH ITS BOARD OF
DIRECTORS,
Plaintiff,

v.

ELIZABETH FERRER, NYH CONDOMINIUM,

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 substituted pursuant hereto; 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 (www.nycourts.gov/supctmanh)); and it is further

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.

Next Conference: March 24, 2020 at 2:15 p.m. If a motion for a judgment of foreclosure and sale has been made prior to the conference, then an adjournment may be obtained; consult

the foreclosure rules of this Part in order to obtain an adjournment. If a conference is necessary, come prepared to explain the reasons for the delay.

10.28.19

DATE

ARLENE P. BLUTH, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FORMAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE

HON. ARLENE P. BLUTH