

At the Supreme Court of the State of New York, held in and for the County of Franklin, at the Courthouse located at 355 West Main St., Malone, NY 12953 on the 11 day of February, 2015

PRESENT:

HON. JOHN T. ELLIS
J.S.C.

RECEIVED
RCPT TL 1224409
FEB 10 2015
PD 45.00
FRANKLIN COUNTY CLERK

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M&T BANK,

Plaintiff,

-against-

[REDACTED]
JOHN DOE #1-#50" AND "MARY ROE #1-#50", THE LAST TWO NAMES BEING FICTITIOUS, SAID PARTIES INTENDED BEING TENANTS OR OCCUPANT, IF ANY, HAVING OR CLAIMING AN INTEREST IN OR LIEN UPON THE PREMISES DESCRIBED IN THE COMPLAINT,

ORDER TO SHOW CAUSE
WITH TEMPORARY
RESTRAINING ORDER

Index No: [REDACTED]
16-1-2013-0382

Defendants.
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Upon reading and filing of the Affidavit of [REDACTED] sworn to February 5, 2015 and [REDACTED] sworn to on February 5, [REDACTED] and the Affirmation of Scott Lanin, Esq. of Lanin Law P.C. dated February 5, 2015 with the annexed Exhibits, and the Affirmation of Emergency dated February 5, 2015, all submitted in support of the Motion of Defendant Alexandra Niel ("Defendant") with exhibits, to dismiss the action and to stay a foreclosure sale and for related relief:

LET the Plaintiff M&T Bank ("Plaintiff"), or its attorneys Schiller & Knapp, LLC, the Court-appointed Referee, Thomas Robert Adams, Esq., show cause at Franklin County courthouse thereof, located at 355 West Main St. Suite 3223, Malone, NY 12953, on the 16th day of March

█ at 9:30 o' clock in the forenoon of that day, or as soon thereafter as counsel can be heard, why an Order(1) dismissing this foreclosure action and the Complaint of Plaintiff M&T Bank ("M&T" or "Plaintiff") for lack of standing and failure to establish the condition precedent of serving and filing a pre-foreclosure notice pursuant to RPAPL §§1304 and 1306, (2) in the event that this action is not dismissed, scheduling a mandatory Foreclosure Settlement Conference pursuant to CPLR §3408; (3) vacating the order of reference and the final judgment of foreclosure and sale issued on default pursuant to CPLR§5015 (a)(1) and/or the inherent power of the Court to prevent injustice, (4) temporarily restraining the Plaintiff, the Referee, and their successors, officer, directors, employees, representatives, attorneys, agents and assigns from selling, transferring, hypothecating, pledging, assigning, encumbering or otherwise disposing of, or making any attempt to take possession of, any part of the Property located at █ (the "Property") and to stay the sale scheduled for February 13, █ (5) allowing Defendant █ to file a late answer pursuant to CPLR §3012 (d) and/or CPLR §2004 and (6) authorizing Defendant Alexandra Niel and her attorney to appear telephonically.

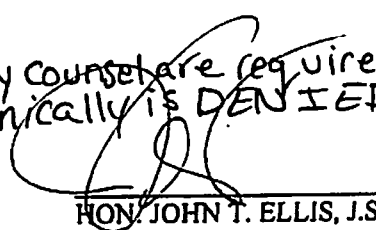
In the meantime and pending the hearing and determination of the within motion, it is hereby,

ORDERED, that the Plaintiff, the Referee Thomas Robert Adams, Esq. and their heirs, successors, officers, directors, employees, representatives, attorneys, agents and assigns, be, and hereby are, stayed and enjoined from selling, transferring, hypothecating, pledging, assigning, encumbering or otherwise disposing of, or making any attempt to take possession of, any part of the Property and the foreclosure sale is stayed;

SUFFICIENT REASON appearing therefrom, let service of a copy of this order to show cause, together with the papers upon which it is granted to (1) Attorneys for Plaintiff, Schiller &

Knapp, LLP, 950 New Loudon Road, Suite 109, Latham, N.Y. 12110, and (2) Thomas Robert Adams, Esq., Referee, 235 Main Street, Massena, N.Y. 13662 by Federal Express overnight delivery, on or before the 12 day of February, [REDACTED] be deemed good and sufficient notice of this application; and it is further

ORDERED that appearances by counsel are required and defense counsel's request to appear telephonically is *DENIED*


HON. JOHN T. ELLIS, J.S.C.