

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

M&T BANK,

Plaintiff,

NOTICE OF ENTRY

-against-

Index No.:

EFCA2017000613


MARK HEATH;

Defendants.

Sirs/Madams: - Please take notice that the within is a true and exact copy of the Granted Order of Reference duly entered in the Broome County Clerk's Office on May 12, 2018.

Dated: June 6, 2018

SCHILLER, KNAPP,
LEFKOWITZ & HERTZEL, LLP

By: 
STEPHEN J. CARNEY, ESQ.
Attorneys for Plaintiff
950 New Loudon Road
Latham, New York 12110
(518) 786-9069

To:
Mark C. Gugino, Esq.
41 Lieb Rd
Spencer, NY 14883

Mark Heath
4170 Cheryl Drive,
Binghamton, New York 13903

At Part 1as of the Supreme Court held in
The County of Broome at the
Broome County Supreme Courthouse
thereof, on the 13th day of
April, 20 18.

PRESENT: HON. RITA CONNERTON, J.S.C. *(Acting)*

JUSTICE OF THE SUPREME COURT

M&T BANK

Plaintiff(s),

INDEX NO. EFCA2017000613

**ORDER OF REFERENCE AND
DEFAULT JUDGMENT**

v.

MARK HEATH; "JOHN DOE #1- #50" and
"MARY ROE #1- #50", the last two names being
fictitious, said parties intended being tenants or
occupants, if any, having or claiming an interest in
or lien upon the premises described in the complaint,
Defendant(s).

MORTGAGE PROPERTY: 4170
Cheryl Drive, Binghamton, New York
13903
COUNTY: Broome
SBL#: 161.14/2/16

UPON the Summons, Complaint, and Notice of Pendency filed in this action on the
March 20, 2017, the Notice of Motion dated March 9, 2018, the affirmation of Stephen J.
Carney, Esq., and the exhibits annexed thereto, the affidavit of merit and amount due by
Kimberly Dutchess, who is Representative of M&T Bank, duly sworn to on February 13, 2018,
together with the exhibits attached 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

AND the court having held a mandatory settlement conference pursuant to CPLR 3408,
and a settlement was not reached and the case was released from the settlement conference part
on January 12, 2018;

AND it appearing that the defendants' time to answer the complaint has expired; and

AND it appearing to the satisfaction of this court that this action was brought to foreclose a mortgage on real property located at 4170 Cheryl Drive, Binghamton, New York 13903, in the County of Broome, State of New York [Section 161.14, Block 2, Lot 16],

NOW, on motion of Schiller, Knapp, Lefkowitz & Hertzell, LLP, attorneys for the

Plaintiff, it is hereby

ORDERED that the non-appearing, non-answering defendants are determined to be in default; and it is further

ORDERED that MARK C. GUGINO, ESQ. with an

address of 41 Lieb Rd., Spencer, NY 14883, is hereby appointed Referee, in accordance with RPAPL § 1321, to compute the amount due to Plaintiff and to examine whether the mortgaged property may be sold in parcels; and it is further

ORDERED that the Referee make his/her computation and report with all convenient speed; and it is further

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

ORDERED that by accepting this appointment the Referee certifies that he/she 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), the statutory fee of \$50.00, and in the

discretion of the court, a fee of \$ shall be paid to the Referee for the computation of the

amount due and upon the filing of his/her 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 §003(a); and it is further

ORDERED that the Referee is prohibited from accepting or retaining any funds for him/herself 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 the names "John Doe#1-#50" and "Mary Roe#1-#50" are stricken from the caption; and it is further

ORDERED that the caption shall read as follows:
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BROOME

M&T BANK

Plaintiff(s),

v.

MARK HEATH;

Defendant(s).

INDEX NO. EFCA2017000613

MORTGAGE PROPERTY: 4170
Cheryl Drive, Binghamton, New York
13903

COUNTY: Broome

SBL#: 161.14/2/16

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.

This constitutes the decision and order of the court.

DATED: 5/14/18

ENTER: Rita Connerton

HON. RITA CONNERTON, J.S.C. (acting)

ORDERED, that plaintiff shall provide the Referee all required documents to compute within sixty (60) days from the date of this Order, and the Referee shall make his/her report no later than thirty (30) days thereafter and that, except for good cause shown, the plaintiff shall move for judgment no later than thirty (30) days of the date of the Referee's

**PLAINTIFF MUST SERVE ALL
DEFENDANTS WITH THIS
ORDER BY MAIL AND FILE
AN AFFIDAVIT OF SERVICE.**