

At Part \_\_\_\_\_ of the Supreme Court held  
in the County of Ontario, at the  
\_\_\_\_\_ Courthouse thereof, on  
the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PRESENT: \_\_\_\_\_  
JUSTICE OF THE SUPREME COURT

Wells Fargo Bank, N.A.,

INDEX NO.: 124153-2019

Plaintiff(s),

**ORDER OF REFERENCE AND  
DEFAULT JUDGMENT**

v.

MORTGAGED PROPERTY:  
4994 North Road  
Canandaigua, NY 14424

Carole Clark, as Administratrix CTA to the Estate of  
Elizabeth J. Davenport a/k/a Elizabeth Davenport; State  
of New York; New York State Department of Taxation  
and Finance, and "JOHN DOE", said name being  
fictitious, it being the intention of Plaintiff to designate  
any and all occupants of premises being foreclosed  
herein, and any parties, corporations or entities, if any,  
having or claiming an interest or lien upon the mortgaged  
premises,

COUNTY: Ontario

Defendant(s).

SBL #: Section 71.09 Block 2 Lot  
6.00

UPON the Summons, Complaint, and Notice of Pendency filed in this action on the 3rd  
day of May, 2019, the Additional Notice of Pendency filed on the 9th day of July, 2019, the Notice  
of Motion dated 7/31/19, the affirmation of Patrick Gregorits, Esq., and the  
exhibits annexed thereto, the affidavit of merit and amount due by Astra Love-Easter who is Vice  
President Loan Documentation of Wells Fargo Bank, N.A., duly sworn to on July 22, 2019,  
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

**UPON** a Notice of Appearance by Carole Clark, as Administratrix CTA to the Estate of Elizabeth J. Davenport a/k/a Elizabeth Davenport;

**AND** it appearing that the defendant(s)/mortgagor(s) is/are not resident(s) of the property subject to foreclosure;

**AND** it appearing that Carole Clark, as Administratrix CTA to the Estate of Elizabeth J. Davenport a/k/a Elizabeth Davenport and State of New York and New York State Department of Taxation and Finance and Wade Birnbaum (sued herein as "JOHN DOE #1") time to answer the complaint has expired;

**AND** it appearing to the satisfaction of this court that this action was brought to foreclose a Mortgage on real property located at 4994 North Road, Canandaigua, NY 14424, in the County of Ontario, State of New York, Section 71.09 Block 2 Lot 6.00,

**NOW**, on motion by Shapiro, DiCaro & Barak, LLC, attorney for the Plaintiff, it is hereby

**ORDERED** that defendant(s), State of New York and New York State Department of Taxation and Finance and Wade Birnbaum (sued herein as "JOHN DOE #1") are determined to be in default; and it is further

**ORDERED** that \_\_\_\_\_ with an address of \_\_\_\_\_, 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 \$350.00, 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 8003(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 caption of this action be amended by substituting Wade Birnbaum in place of "JOHN DOE"; and it is further

**ORDERED** that the caption shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ONTARIO

\_\_\_\_\_  
Wells Fargo Bank, N.A.,

Plaintiff(s),

v.

Carole Clark, as Administratrix CTA to the Estate of  
Elizabeth J. Davenport a/k/a Elizabeth Davenport; State  
of New York; New York State Department of Taxation  
and Finance; Wade Birnbaum,

Defendant(s).  
\_\_\_\_\_

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Canandaigua, NY 14424

COUNTY: Ontario

SBL #: Section 71.09 Block 2 Lot  
6.00

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:** \_\_\_\_\_

**ENTER:**

\_\_\_\_\_  
**J.S.C.**