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At Part _____ of the Supreme Court held
in the County of Ontario, at the
_____ Courthouse thereof, on
the 11th day of September, 2019.

Acting PRESENT: Hon Brian D Dennis
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 Donna M. Cathy, Esq. ³¹⁵⁻⁷⁸¹⁻¹⁵⁵⁶ with an address of P.O. Box 551 Waterloo, NY 13165 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: 9-11-19

ENTER:


A J.S.C.