

At an IAS Part of the Supreme Court of the State of New York held in and for the County of Rockland at the Rockland County Courthouse located at One South Main Street, New City, New York on the 7th day of ~~September~~ November, 2018.

PRESENT: HON. THOMAS E. WALSH II, J.S.C.

-----x
ROSEANN BADAMAO,

Plaintiff

-against-

NICHOLAS BERNHARD,

Defendant.
-----x

**AMENDED
DECISION & ORDER**
Index No. 033184/2016
Motion # 4 - MG
DC - N
Adj: 12/20/18

The Court's Decision and Order dated September 4, 2018 is Amended due to the unavailability of Maureen A. Moran, Esq. to act as Referee. The Court is assigning a new Referee in the instant action. The balance of the Decision and Order remains in effect.

The following papers numbered 1 read in connection with Plaintiff's unopposed Notice of Motion for an Order (1) appointing a referee to determine the rights and interest of the Plaintiff, RoseAnn Badamo and Defendant Nicholas Bernhard, in the proceeds of the sale of 183 Terrace Avenue, Congers, New York and to distribute the proceeds accordingly and (2) granting such other and further relief as this Court seems just and proper:

PAPERS

NUMBERED

Notice of Motion (Motion # 4)/Affirmation of Kevin E. Staudt, Esq./
Exhibits (A-B)

1

Briefly, the instant action was one for partition and sale of a single family home located at 183 Terrace Avenue, Congers, New York. Said premises were sold at public auction on November 16, 2017 by Referee Elizabeth Balsamo DiStefano, Esq. Subsequent to the sale, the proceeds of the sale (\$303,579.00) were placed in an escrow account by the referee (as per the

Report of Sale e-filed on December 15, 2017). According to Plaintiff's counsel the prior Referee has resigned and has received her requested legal fees (Decision and Order dated February 22, 2018).

The parties are seeking an accounting to determine the distribution of the proceeds currently in the aforementioned escrow account.

As such, the Court is appointing

Ira S. Schoeps

334 S. Middletown Rd.

Nanuet, N.Y. 10954

for the purpose of performing an accounting of the amounts due to the parties from the proceeds of the sale of the real property located at 183 Terrace Avenue, Congers, New York.

The instant Referee is directed to conduct a hearing (if necessary). The Referee has the authority to seek all discovery and documentation necessary from the parties in support of their application for determination of the distribution of the proceeds. The Referee will submit said accounting to the undersigned along with a report of the determination to be *So Ordered* within ninety (90) days of the date hereof.

The parties are to cooperate with the assigned Referee and provide all requested documentation and appear for all required meetings, hearings and other proceedings timely and as directed.

Accordingly, it is hereby

ORDERED, that Ira Schoeps is appointed in the instant action as Referee for the purpose of obtaining an accounting and determining the distribution of the proceeds of the sale of 183 Terrace Avenue, Congers, New York; and it is further

ORDERED, that Ira S. Schoeps, as Referee is directed to conduct a hearing (if necessary) and has the authority to seek all discovery and documentation necessary from the parties in support of their application for determination of the distribution of the proceeds; and it is further

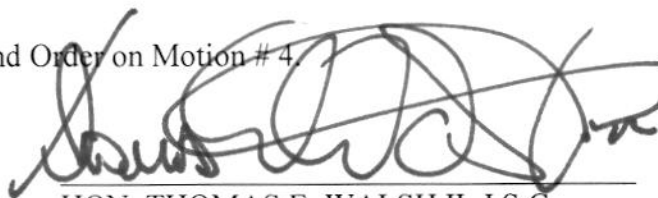
ORDERED, that Ira S. Schoeps, as Referee will submit said accounting to the undersigned along with a report of the determination as to the proceeds for the undersigned to So Order within ninety (90) days of the date hereof; and it is further

ORDERED, the parties are to cooperate with the assigned Referee and provide all requested documentation and appear for all required meetings, hearings and other proceedings timely and as directed; and it is further

ORDERED, failure by the parties to proceed expeditiously and/or to delay the instant accounting could result in sanctions; and it is further

ORDERED, that the parties are to appear for a conference on **THURSDAY**
DECEMBER 20, 2018 at 9:30 a.m.

The foregoing is the Court's Decision and Order on Motion # 4.



HON. THOMAS E. WALSH II, J.S.C.

Dated: New City, New York
November 7, 2018

To:

KEVIN STAUDT, ESQ.
McCULLOUGH, GOLDBERGER & STAUDT, LLP
Attorney for Plaintiff
(via e-file)

ROBERT S. LEWIS, ESQ.
Attorney for Defendant
(via e-file)