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| SUPREME COURT OF THE STATE OF NEW YORK  COUNTY OF [[BoroughName]]  ------------------------------------------------------------------X  [[Plantiff]],  Plaintiff,  vs.  [[Defendant]], [[Defendant1]]    Defendant.  -----------------------------------------------------------------X |  |  | Index No.: [[IndexNum]] |

NOTICE REGARDING AVAILABILITY OF ELECTRONIC FILING

SUPREME COURT CASES

PLEASE TAKE NOTICE that plaintiff(s)/petitioner(s) [defendant(s)/respondent(s)] in the case captioned above intends that this matter proceed as an electronically-filed case in the New York State Courts Electronic Filing System (“NYSCEF”) in accordance with the procedures therefore, set forth in Uniform Rule 202.5-b and described below. Under that Rule, filing and service of papers by electronic means cannot be made by a part nor can electronic service be made upon a party unless that party has consented to use of the System for the case in question. Each party served with this notice must promptly file with the court and serve on all other parties either a consent or a declination of consent to electronic filing and service through NYSCEF for this case, (See Instruction #2 below.)

General Information

Electronic filing offers significant benefits for attorneys and litigants permitting documents to be filed with the County Clerk and the court and served, between or among consenting arties, by posting the documents on the NYSCEF Website, which can be done at any time of the day or night on any day of the week. There is no fee to use the NYSCEF System, whether for filing, service, or consulting of the electronic docket, not is there a charge to print documents from the docket. Normal filing fees must be paid, but this can be done by credit or bank card on-line. For additional procedures and information, see Uniform Rule 202.5-b, any e-filing protocol that may have been promulgated by the court in question, and the NYSCEF Website at www.nycourts.gov/efile.

Instructions  
1. Service of this Notice constitutes consent to e-filing and a statement of intent by the undersigned to use the NYSCEF System in this case. When an action or proceeding is being commenced through the NYSCEF System, this Notice must accompany service of the initiating papers.

2. Each party served with this Notice may consent to e-filing either: (i) by filing with the court and serving on all parties of record a consent to e-filing, or (ii) if an authorized e-filing user, by filing a consent electronically in the manner provided at the NYSCEF site Parties who do not wish to consent must file and serve a written declination of consent. If one party or some but fewer than all parties consent, NYSCEF may be used by and between or among consenting parties.

3. Each participating attorney, unless already registered, or self-represented party must PROMPTLY create a NYSCEF account and obtain the confidential Filing User Identification Number and Password necessary to use the system. To create a NYSCEF account, go to www.nycourts.gov/efile, click the Create an Account link, and follow the instructions.

4. For additional information about NYSCEF, see the User’s Manual and Frequently Asked Questions on the Website, or contact the court in question or the NYSCEF Resource Center (Phone-386-3033; e-mail: efile@nycourts.gov; mailing address: 60 Centre Street, New York, New York 10007).

Dated: ­­­­­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Phone

Print Name Fax

Address (1) Email

Address (2) Attorney(s) for

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| SUPREME COURT OF THE STATE OF NEW YORK  COUNTY OF [[BoroughName]]  ------------------------------------------------------------------X  [[Plantiff]],    Plaintiff,  vs.  [[Defendant]], [[Defendant1]]    Defendant.  -----------------------------------------------------------------X |  |  | Index No.: [[IndexNum]]  **NOTICE OF PENDENCY** |

**NOTICE IS HEREBY GIVEN** that an action has been commenced and is now pending in the Supreme Court of [[BoroughName]] County upon the Complaint of the above named Plaintiff, [[Plantiff]], against the above-named Defendant, [[Defendant1]], for the determination of all estates, rights, interest and title to the premises known as [[PlantiffAttorneyAddress]], Block \_\_\_[[Block]]\_\_\_\_, Lot \_\_\_[[Lot]]\_\_\_ pursuant to the provisions of Article 15 of the Real Property Actions and Proceedings Law, cancelling the primary and junior mortgages as follows:

A certain mortgage dated [[MortgageDate]], made by [[Plantiff]] to Mortgage Electronic Registration Systems Inc., (hereinafter “MERS”) is a separate corporation that is acting solely as a nominee for (LENDER) in the principle sum of [[MortgageAmount]] and recorded on (DATED OF RECORDING) in CRFN# (CRFN NUMBER) in the Office of the Clerk of the County of [[BoroughName]] covering premises known as [[PropertyAddress]], Block [[Block]] Lot [[Lot]].

**AND NOTICE IS FURTHER GIVEN,** that the subject premises, affected by lien, were at the time of the commencement of this action, and at the time of the filing of this Notice, situated at, [[PropertyAddress]] Block [[Block]] Lot [[Lot]] in the County of [[BoroughName]], State of New York, and described in said Bargain and Sale Deed and in Schedule A individually attached hereto and made part hereof.

**TOGETHER** with all the right, title and interest of the Defendant in and no the land lying in the street and roads in front of and adjoining said premises.

The Clerk of the County of New York is directed to index this Notice against the above named Defendant, [[Defendant]].

Dated: [[BoroughName]], New York

\_\_\_\_\_\_\_ , 2015

**Law Office of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

[[PlantiffAttorney]],

[[PlantiffAttorneyAddress]]

[[PlantiffAttorneyPhone]]

*Attorney for Plaintiff*

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| SUPREME COURT OF THE STATE OF NEW YORK  COUNTY OF [[BoroughName]]  ------------------------------------------------------------------X [[Plantiff]],    Plaintiff,  vs.  [[Defendant]], [[Defendant1]]    Defendant.  -----------------------------------------------------------------X |  |  | Index No.: [[IndexNum]] |

**NOTICE OF PENDENCY**

Dated: [[BoroughName]], New York

\_\_\_\_\_\_\_ , 2015

**Law Office of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

[[PlantiffAttorney]],

[[PlantiffAttorneyAddress]]

[[PlantiffAttorneyPhone]]

*Attorney for Plaintiff*

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| SUPREME COURT OF THE STATE OF NEW YORK  COUNTY OF [[BoroughName]]  ------------------------------------------------------------------X  [[Plantiff]],  Plaintiff,  vs.  [[Defendant]], [[Defendant1]]    Defendant.  -----------------------------------------------------------------X |  |  | Index No.: [[IndexNum]]  **SUMMONS**  The basis of venue is situs of the real property in [[BoroughName]] County, at [[PropertyAddress]]  Plaintiff resides at: [[PlantiffAttorneyAddress]] |

To the above named defendant(s)

**YOU ARE HEREBY SUMMONED** to serve an answer to the complaint in this action, or if the complaint is not served with the summons, to serve a notice of appearance, on the Plaintiff’s attorney(s) within 20 days after the service of this summons, exclusive of the day of service or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to serve an answer or appear, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: [[BoroughName]], New York

\_\_\_\_\_\_\_ , 2015

**Law Office of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

[[PlantiffAttorney]],

[[PlantiffAttorneyAddress]]

[[PlantiffAttorneyPhone]]

*Attorney for Plaintiff*

**To: (DEFENDANT’S ADDRESS)**

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF [[BoroughName]]

------------------------------------------------------------------X

[[Plantiff]],

Plaintiff, Index No.[[IndexNum]]

vs. **VERIFIED COMPLAINT**

[[Defendant1]], [[Defendant1]]

Defendant.

-----------------------------------------------------------------X

Plaintiff, by their attorney, [[PlantiffAttorney]]., complaining of the Defendant, [[Defendant]] (hereinafter “Defendant”), respectfully alleges, as and for her Verified Complaint, the following:

**NATURE OF THE ACTION**

1. This is an action seeking partition by judicial sale of certain real property owned by Plaintiff and Defendant.
2. At all times hereinafter mentioned and at the date of the commencement of this action Plaintiff resides (PLAINTIFF ADDRESS).
3. At all times hereinafter mentioned and at the date of the commencement of this action, Defendant resides at (DEFENDANT 1 ADDRESS).

**BASIS OF THE COMPLAINT**

1. The Plaintiff and Defendant own in fee and possess, each with a 50% interest as tenants in common, in certain real property known as and located at [[PropertyAddress]] (hereinafter “Premises”).
2. The defendant became fee simple absolute owner of the premises after purchasing the Premises on or about (DATE OF PROPERTY PURCHASE). Said deed transfer was recorded on (RECORDING DATE), with the City Registrar of the City of New York in CRFN (CRFN NUMBER).

**FOR A FIRST CAUSE OF ACTION FOR A PARTITION**

1. The allegations contained in each paragraph set forth above in this Complaint are re-alleged and incorporated by reference as if fully set forth herein.
2. Following the deed transfer on \_\_\_\_\_\_\_\_, Plaintiff and Defendant are each entitled to a divided one-half interest in said Premises as tenants in common.
3. Plaintiff has sought out loss mitigation alternatives to foreclosure; however, Plaintiff has been unable to process with a desired short sale as Defendant, who is contesting everything, refuses to participate and must be party to any sale contract. However, as of the date of commencement of this action, Defendant has been and continues to be completely uncooperative and unresponsive.
4. Defendant has continued to live at the premises without making any contributions to the mortgage, which is in both Plaintiff and Defendants name, nor has Defendant made any contributions in the form of rent, either to Plaintiff, or the bank.
5. In addition, the Defendant refuses to maintain to the Premises, despite the fact that he is residing at the said Premises. As a result, doorbells are absent, the property is in disrepair, the façade is peeling off, and creating other issues.
6. As the subject premises cannot be physically divided, Plaintiff seeks to have the Court provide for a sale of the premises. However, as a result of the economic downturn felt throughout the county, the value of the Premises has drastically decreased since Plaintiff, and Defendant obtained the deed.
7. Furthermore, due to the liens against the premises, there is negative equity in the Premises as it has been determined that the value of the home is less than the outstanding balances of the mortgage.
8. Thus, a partition is the only way to protect the parties’ interests and prevent further loss.

**FOR A SECOND CAUSE OF ACTION DIRECTING THE DEFENDANT TO COOPERATE AND COMPLETE A SHORT SALE**

1. The allegations contained in each paragraph set forth about in this Complaint are re-alleged and incorporated by reference as if fully set forth herein.
2. Plaintiff has no other remedy at law and must therefore turn to the Court to grant interlocutory judgment pursuant to RPAPL Article 9 directing a short sale of the Premises in order to protect Plaintiff from further harm that will come to her if the property is lost through foreclosure.
3. Parties to this action own no other lands as tenants in common or as joint tenants.
4. All parties with an ownership interest in this action are residents of the State of New York, and none are infants and all are over the age of eighteen.

**FOR A THIRD CAUSE OF ACTION FOR UNJUST ENRICHMENT**

1. The allegations contained in each paragraph set forth about in this Complaint are re-alleged and incorporated by reference as if fully set forth herein.
2. Upon information and belief, Defendant continues to reside at the Premises and continues to collect rent from the other occupants of the Premises.
3. Defendant has been unjustly enriched by living in the Premises, from collecting rent from tenants, without remuneration to the Plaintiff or the bank.
4. While Defendant has resided at the Premises and collected rents from the other tenants residing at the Premises, Defendant has upon information and belief failed to make any mortgage payments.
5. Defendant’s collection of rent and failure to tender payments for his own use and occupancy towards the mortgagees continues to harm Plaintiff as she is unable to negotiate any loss mitigation alternatives.
6. Plaintiff lacks an adequate remedy at law.

WHEREFORE, plaintiff demands judgment of partition and sale and that the plaintiff may have such other and further relief as may be just and proper.

Dated: \_\_\_\_\_\_\_\_ , 2015

\_\_\_\_\_\_\_\_\_\_, New York

**Law Office of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

[[PlantiffAttorney]],

[[PlantiffAttorneyAddress]]

[[PlantiffAttorneyPhone]]

*Attorney for Plaintiff*

**VERIFICATION**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** being duly sworn, deposes and says:

I am the plaintiff in the above-entitled action. I have read the foregoing

complaint and know the contents thereof. The same are true to my knowledge, except

as to matters therein stated to be alleged on information and belief and as to those

matters I believe them to be true.

**X**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(managing agent signature in front of notary – delete this comment when finished)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Print name of managing agent of corp and name of corp – delete this comment when finished)

Plaintiff Sworn to before me this

\_\_\_\_\_\_\_\_ day of , 20\_\_\_

Notary Public

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| SUPREME COURT OF THE STATE OF NEW YORK  COUNTY OF [[BoroughName]]  ------------------------------------------------------------------X [[Plantiff]],  Plaintiff,  vs.  [[Defendant]], [[Defendant1]]    Defendant.  -----------------------------------------------------------------X |  |  | Index No.: [[IndexNum]] |

**SUMMONS AND VERIFIED COMPLAINT**

**Law Office of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

[[PlantiffAttorney]],

[[PlantiffAttorneyAddress]]

[[PlantiffAttorneyPhone]]

*Attorney for Plaintiff*