|  |  |  |  |
| --- | --- | --- | --- |
| SUPREME COURT OF THE STATE OF NEW YORK  COUNTY OF [[CourtAddress]]  ------------------------------------------------------------------X  [[Plantiff]],  Plaintiff,  vs.  [[Defendant]], [[Defendant2]], [[Defendants]]    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

|  |  |  |  |
| --- | --- | --- | --- |
| SUPREME COURT OF THE STATE OF NEW YORK  COUNTY OF [[CourtAddress]]  ------------------------------------------------------------------X  [[Plantiff]],  Plaintiff,  vs.  [[Defendant]], [[Defendant2]] [[Defendants]],    Defendant.  -----------------------------------------------------------------X |  |  | Index No.:[[IndexNum]]  **NOTICE OF PENDENCY ACTION** |

**NOTICE IS HEREBY GIVEN** that an action has been commenced an is now pending in the Supreme Court of [[CourtAddress]] County upon the Complaint of the above named Plaintiff, [[Plantiff]], against the above-named Defendants [[Defendant]], [[Defendant2]], and [[Defendant2]] for the determination of all estates, rights, interest and title to the premises known as [[PropertyAddress]] 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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, made by [[Mortgagee]] to [[OriginalMortgageLender]] in the principle sum of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and recorded on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in CRFN# \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the Office of the Clerk of the County of [[CourtAddress]] covering premises known as [[PropertyAddress]] Block \_\_[[Block]]\_\_, Lot \_\_[[Lot]]\_\_; **and**

A certain mortgage dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, made by [[Mortgagee]] to [[OriginalMortgageLender]] in the principle sum of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and recorded on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in CRFN# \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the Office of the Clerk of the County of [[CourtAddress]] covering premises known as [[PropertyAddress]] Block \_\_[[Block]]\_\_, Lot \_\_[[Lot]]\_\_; ***(((((USE THIS ONLY IF YOUHAVE A 2ND LIEN)))))))***

**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 [[CourtAddress]], 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 [[CourtAddress]] is directed to index this Notice against the above named Defendants, [[Defendant]], [[Defendant2]], and [[Defendant2]].

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

[[CourtAddress]], New York

\_\_\_\_\_

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

[[PlantiffAttorney]],

[[PlantiffAttorneyAddress]]

(address 2)

[[PlantiffAttorneyPhone]]

*Attorney for Plaintiff*

|  |  |  |  |
| --- | --- | --- | --- |
| SUPREME COURT OF THE STATE OF NEW YORK  COUNTY OF [[CourtAddress]]  ------------------------------------------------------------------X  [[Plantiff]],  Plaintiff,  vs.  [[Defendant]],[[ Defendant2]], [[Defendants]],    Defendant.  -----------------------------------------------------------------X |  |  | Index No.:[[IndexNum]] |

**NOTICE OF PENDENCY ACTION**

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

[[PlantiffAttorney]],

[[PlantiffAttorneyAddress]]

(address 2)

[[PlantiffAttorneyPhone]]

*Attorney for Plaintiff*

|  |  |  |  |
| --- | --- | --- | --- |
| SUPREME COURT OF THE STATE OF NEW YORK  COUNTY OF [[CourtAddress]]  ------------------------------------------------------------------X  [[Plantiff]],  Plaintiff,  vs.  [[Defendant]], [[Defendant2]], [[Defendants]],    Defendant.  -----------------------------------------------------------------X |  |  | Index No.:[[IndexNum]]  **SUMMONS** |

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

[[CourtAddress]], New York

\_\_\_\_\_

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

[[PlantiffAttorney]],

[[PlantiffAttorneyAddress]]

[[PlantiffAttorneyPhone]]

*Attorney for Plaintiff*

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF [[CourtAddress]]

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

[[Plantiff]],

Plaintiff, Index#

vs. **VERIFIED COMPLAINT**

[[Defendant]] ,[[Defendant2]] [[Defendants]],

Defendant.

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

Plaintiff, by its attorney, LAW OFFICES OF [[PlantiffAttorney]], complaining of the Defendant, alleges the following:

1. At All times hereinafter mentioned [[Plantiff]], is and has been a New York Corporation, duly organized and authorized to do business under the laws of the State of New York
2. Upon information and belief Defendant [[Defendant]] is a “Lender” doing business in the State of \_\_\_\_\_\_\_\_\_\_\_\_ (or has ceased lending operations in New York.) **<- optional**
3. Upon information and belief Defendant [[Defendant2]], is a “Lender” doing business in the State of New York. ***(((((USE THIS ONLY IF YOUHAVE A 2ND LIEN)))))))***

**AS AND FOR A FIRST CAUSE OF ACTION**

1. That this action is brought pursuant to Article 15 of the Real Property Actions and Proceedings Law to compel the determination of claims to real property hereinafter described.
2. That on or about \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [[Mortgagee]] became the owner of the premises commonly known as [[PropertyAddress]] Block \_\_[[Block]]\_\_, Lot \_\_[[Lot]]\_\_. **(See “Exhibit \_\_”)**
3. That also on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [[Mortgagee]] duly executed and delivered a **primary** mortgage and a note to [[OriginalMortgageLender]] both in the respective amount of $\_\_\_\_\_\_\_\_\_\_\_\_ **(See “Exhibit \_\_”)**
4. *Contemporaneously, on this date, PIERRE C AMEAU duly executed and delivered a* ***junior*** *mortgage and note to Decision One Mortgage Company, LLC in the amount of $137,600.* ***(See “Exhibit C”) (((((USE THIS ONLY IF YOUHAVE A 2ND LIEN)))))))***
5. That the primary mortgage was recorded with the Office of the City Register for the County of [[CourtAddress]] on \_\_\_\_\_\_\_\_\_\_\_ under CRFN # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
6. *That the junior mortgage was recorded with the Office of the City Register for the County of Kings on November 30, 2006 under CRFN # 2006000661977.* ***(((((USE THIS ONLY IF YOUHAVE A 2ND LIEN)))))))***
7. The mortgage instrument stipulates that the lender can accelerate the debt upon a mortgagor’s default on the mortgage obligation.
8. The promissory note also stipulates terms under which the “lender” may accelerate the debt upon the obligor’s default on the loan.
9. In exchange for the executed mortgage and note, [[OriginalMortgageLender]] extended [[Mortgagee]] a loan in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_as purchase money for the purchase transaction of the premises known as [[PropertyAddress]] Block \_\_[[Block]]\_\_, Lot \_\_[[Lot]]\_\_.
10. That said subject Premises is further and more fully described as Schedule A. **(See “Exhibit \_\_”)**
11. Thereafter, on \_\_\_\_\_\_\_\_\_\_\_\_, the **primary** mortgage and note in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_ was assigned by [[OriginalMortgageLender]] by assignment of mortgage to [[Defendant]] and recorded in the County Clerk’s Office for the County of [[CourtAddress]] on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ in CRFN # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
12. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
13. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
14. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
15. That the said foreclosure action, [[FCIndexNum]] was voluntarily discontinued.
16. That to date, there is no pending foreclosure action.
17. Payments have not been made on the primary and junior mortgage obligation since on or about [[DefaultDate]].
18. That more than six years have passed since the loan was initially accelerated on [[FCFiledDate]] and there is no foreclosure action pending within the Courts.
19. That the time for the mortgagee to commence a foreclosure action and foreclose the subject note and mortgage has expired based upon the 6 year statute of limitations commencing from time of the initial acceleration on [[FCFiledDate]] and the last payment date of [[DefaultDate]].
20. That the Statute of limitations will prevent mortgagee from commencing another action to foreclose the subject note and mortgage or an initial action to foreclose the subject note and mortgage.
21. That on [[DeedToPlaintiffDate]] all estates, rights, interest and title to [[PropertyAddress]] Block \_\_[[Block]]\_\_, Lot \_\_[[Lot]]\_\_ is conveyed to the Plaintiff by way of a bargain and sale deed by [[Mortgagee]] to the Plaintiff and recorded with the County Clerk’s Office for the County of [[CourtAddress]]. **(See “Exhibit \_\_”)**
22. That the Defendants are known and none are infants, mentally retarded, mentally ill or alcohol abusers.
23. Upon information and belief, absent a judicial order, mortgagee will attempt to foreclose on the property and seek to sell the subject property at a public sale, regardless of demand, if a determination of the plaintiff’s claim to the mortgaged premises is not made in the plaintiff’s favor.
24. This action is brought in equity, at law and under the provisions of Article 15 of the Real Property Actions and Proceedings Law to clear the County records of the aforementioned mortgage encumbrance to the mortgaged premises, more fully described herein as “Exhibit A” annexed hereto, and establish Plaintiff as the sole and rightful interest holder of record.
25. That mortgagee, herein claims or it appears from public records that Defendants might claim, an estate or interest in the subject property adverse to Plaintiff.
26. A judgment will not affect a person or persons not in being or ascertained at the commencement of this action, who by any contingency contained in a demise or grant or otherwise, could afterward become entitled to a beneficial estate or interest in the Premises.
27. No personal claim is made in this action against any defendant other than a defendant who shall assert a claim adverse to the claim of the Plaintiff set forth in this complaint.
28. Plaintiff seeks judgment to the effect that Defendants and every person claiming under them are barred from all claims to an estate or interest in the Premises described in the complaint superior to Plaintiff’s interests and also a judgment declaring the subject note and mortgage unenforceable and direct the County clerk to remove the mortgage from the county records and in the alternative to order the Clerk to record a copy of the judgment holding the mortgage unenforceable.
29. Plaintiff has no other adequate remedy at law.

**WHEREFORE**, Plaintiff respectfully demands judgment against [[Defendant]], [[Defendant2]], and [[Defendants]] in the FIRST Cause of action cancelling the primary mortgage to [[PropertyAddress]] Block \_\_[[Block]]\_\_, Lot \_\_[[Lot]]\_\_ , County of [[CourtAddress]], City and State of New York, dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and was recorded on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the County of [[CourtAddress]] in CRFN # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and junior mortgage dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_and recorded on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and declaring both mortgages unenforceable and Ordering that the Clerk of the County of [[CourtAddress]] file a copy of the Order declaring the subject mortgages unenforceable, and any such further relief this Court deems just and proper.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, New York

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

\_\_\_\_\_

**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

|  |  |  |  |
| --- | --- | --- | --- |
| SUPREME COURT OF THE STATE OF NEW YORK  COUNTY OF [[CourtAddress]]  ------------------------------------------------------------------X  [[Plantiff]],  Plaintiff,  vs.  [[Defendant]], [[Defendant2]], [[Defendants]],    Defendant.  -----------------------------------------------------------------X |  |  | Index No.:[[IndexNum]] |

**SUMMONS AND VERIFIED COMPLAINT**

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

[[PlantiffAttorney]],

[[PlantiffAttorneyAddress]]

[[PlantiffAttorneyPhone]]

*Attorney for Plaintiff*