

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

JOAN M. KENNEY
J.S.C.

PRESENT: \_\_\_\_\_
Justice

PART 8

Bank of New York Mellon

-v-

INDEX NO
MOTION DATE 7
MOTION SEQ. NO. 003

The following papers, numbered 1 to \_\_\_\_\_, were read on this motion to/for \_\_\_\_\_

Notice of Motion/Order to Show Cause — Affidavits — Exhibits [No(s). \_\_\_\_\_]
Answering Affidavits — Exhibits [No(s). \_\_\_\_\_]
Replying Affidavits [No(s). \_\_\_\_\_]

Upon the foregoing papers, it is ordered that this motion is

It is hereby

ORDERED that the within application is denied, and granted, in part; and it is further

ORDERED that the following affirmative defenses shall remain for plaintiff's failure to establish a prima facie entitlement to its dismissal and in as much as factual disputes exists pertaining to the chain of title to the note at issue, amongst other facts in dispute: 1st, 2nd, 3rd, 4th, 6th, 12th and 21st affirmative defenses; and it is further

ORDERED that defendant's following affirmative defenses/counterclaim(s) are dismissed for defendant's failure to address same and or raise factual disputes in opposition hereto which would necessitate a trial on these matters: 5th, 7th, 8th, 9th, 10th, 11th, 13th, 16th, 17th, 18th, 19th, 20th affirmative defense and 2nd counterclaim, 22nd, are dismissed; and it is further

ORDERED that the application to amend the caption to add two individually named defendants, is denied, for failure to set forth any basis for this amendment of an action pending since 2011; and it is further

ORDERED that the parties proceed to mediation/trial, forthwith.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Dated: June 21, 2016

Signature of Joan M. Kenney, J.S.C.

- 1. CHECK ONE: [ ] CASE DISPOSED [x] NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: MOTION IS: [ ] GRANTED [ ] DENIED [ ] GRANTED IN PART [ ] OTHER
3. CHECK IF APPROPRIATE: [ ] SETTLE ORDER [ ] SUBMIT ORDER [ ] DO NOT POST [ ] FIDUCIARY APPOINTMENT [ ] REFERENCE