

PUBLISH

SHORT FORM ORDER

INDEX NO.7013-2010

SUPREME COURT - STATE OF NEW YORK  
I.A.S. PART XIII SUFFOLK COUNTY

PRESENT:  
HON. MELVYN TANENBAUM  
Justice

MOTION #001  
R/D: \_\_\_\_\_  
S/D: \_\_\_\_\_

THE BANK OF NEW YORK MELLON.,

Plaintiff,

-against-

MARK GUERRA ET AL.,

Defendants.

PLTF'S/PET'S ATTY:  
STEVEN J. BAUM, P.C.  
P.O. BOX 1291  
BUFFALO, NY 14240-1291

DEFT'S/RESP'S ATTY:

Upon the following papers numbered 1 to \_\_\_ read on this motion for an order pursuant to RPAPL Sec.1321

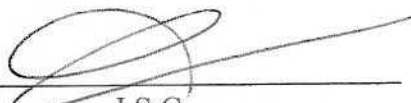
\_\_\_\_\_  
Notice of Motion/Order to Show Cause and supporting papers \_\_\_\_; Notice of Cross  
Motion and supporting papers \_\_\_\_ Answering Affidavits and supporting papers \_\_\_\_ Replying  
Affidavits and supporting papers \_\_\_\_ Other \_\_\_\_; (and after hearing counsel in support and  
opposed to the motion) it is,

This Court has repeatedly directed plaintiff's counsel to submit proposed orders of reference and judgments of foreclosure in proper form and counsel has continuously failed to do so. The Court provided counsel's office directly with copies of orders and judgments which would satisfy the requirements and counsel has responded by submitting correspondence addressed to the Court from non-attorney employees with improper and inadequate submissions. The Court deems plaintiff's counsel's actions to be an intentional failure to comply with the directions of the Court and a dereliction of professional responsibility. Accordingly it is

**ORDERED** that plaintiff's application for an Order of Reference is adjourned until January 18, 2011. On or before this date plaintiff's counsel is directed to submit: 1) an affidavit or affirmation from plaintiff "THE BANK OF NEW YORK MELLON's" counsel certifying that all prior submissions were accurate and correct in the underlying mortgage foreclosure action; 2) an affidavit or affirmation from plaintiff's attorney of record, Steven J. Baum, Esq., certifying that the proposed order submitted by counsel conforms to the Court's requirements; and 3) a proposed order of reference in proper form, and it is further

**ORDERED** that upon failure of counsel to comply with this Order this action shall be marked off the active calendar by the Clerk of the Court.

Dated: November 3, 2010

  
\_\_\_\_\_  
J.S.C.