

SUPREME COURT - STATE OF NEW YORK

Present:

HON. VITO M. DESTEFANO,
Justice

TRIAL/IAS, PART 21
NASSAU COUNTY

**LEAF FUNDING, INC. as the assignee of
Pacific Capital Bank, N.A. and Santa Barbara Bank
and Trust, a division of Pacific Capital Bank, N.A.,
as the assignee of ACC, Capital Corporation,**

Plaintiff,

-against-

**FIRST FIDELITY MORTGAGE GROUP, LTD., d/b/a,
FIRST FIDELITY MORTGAGE GROUP, d/b/a FFMG
MORTGAGE GROUP, ADAM SALTI a/k/a ADAM B.
SALTI, and FRANK LAGREGA a/k/a FRANK S.
LAGREGA, JR. a/k/a FRANK LAGREGGA, JR., a/k/a
FRANK S. LAGREGA a/k/a FRANK DAVID
LAGREGA, JR. a/k/a FRANK LAGREGGA,
individually,**

Defendant.

Decision and Order

**MOTION SUBMITTED:
February 17, 2010
MOTION SEQUENCE:03
INDEX NO. 017309-08**

The following papers and the attachments and exhibits thereto have been read on this motion:

Notice of Motion	1
Affirmation in Opposition	2
Affirmation in Reply	3
Plaintiff's Memorandum of Law	4

Plaintiff Leaf Funding, Inc., moves for orders granting plaintiff: (i) summary judgment against the co-defendant Adam Salti a/k/a Adam B. Salti; (ii) a default judgment against the

corporate co-defendant and; (iii) a judgment of replevin against the corporate co-defendant.¹ For the reasons that follow, plaintiff's motion is denied in its entirety.

Branches (ii) and (iii) of the motion, seeking default judgments against the corporate co-defendant, are denied as plaintiff's motion papers failed to demonstrate compliance with the requirements of CPLR 3215 (g)(4).

Branch (i) of the plaintiff's motion, for summary judgment against the co-defendant Adam Salti a/k/a Adam B. Salti based upon a personal guarantee of corporate co-defendant's contractual obligations, is denied as plaintiff failed to establish prima facie entitlement to such relief. The contract right or cause of action upon which plaintiff's suit is based was assigned or transferred several times. To establish the final link in the chain of assignments, plaintiff proffered an unsworn document entitled "Confirmation of Assignment and Authorization for Enforcement" (Exhibit "H" to the Notice of Motion). This document, which purports to confirm an assignment, perhaps oral, "effective as of June 19, 2007", does not constitute competent evidence sufficient to establish such assignment for purposes of this motion.

For the foregoing reasons, plaintiff motion is, in all respects, denied.

This constitutes the decision and order of the court.

Dated: March 24, 2010


Hon. Vito M. DeStefano, J.S.C.

ENTERED

MAR 30 2010

**NASSAU COUNTY
COUNTY CLERK'S OFFICE**

¹To the extent plaintiff's motion ostensibly seeks a judgment of replevin against the individual co-defendant, it is noted that the equipment at issue is possessed by the corporate co-defendant (Exhibit "C" to the Notice of Motion). In any event, the relief requested would otherwise be denied for the reasons set forth in the court's determination of branch (i).