

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----x  
FEDERAL NATIONAL MORTGAGE ASSOCIATION  
("FANNIE MAE"), A CORPORATION ORGANIZED  
AND EXISTING UNDER THE LAW OF THE UNITED  
STATES OF AMERICA

Index No. 509004/2016

Plaintiff,

- against -

**NOTICE OF ENTRY**

ERIC JONES, THE UNKNOWN HEIRS AT LAW OF  
THE ESTATE OF WILLIAM CRUZ JR., if living, and if  
They be dead, any and all persons who may claim as devisees, distributees, and  
successors in interest to said  
Defendant, all of whom and whose places of residence are unknown to plaintiff,  
and cannot after diligent inquiry be ascertained, CRIMINAL COURT OF THE  
CITY OF NEW YORK, DEPARTMENT OF HOUSING PRESERVATION  
AND DEVELOPMENT, NEW YORK STATE DEPARTMENT OF TAXATION  
AND FINANCE, MERICA DELISSER C/O HUMAN RESOURCES  
ADMINSITRATION, NEW YORK CITY PARKING VIOLATIONS BUREAU,  
NEW YORK CITY ENVIRONEMTNAL CONTROL BOARD, NEW YORK  
CITY TRANSIT ADJUDICATION BUREAU, DEPARTMENT OF HOUSING  
PRESERVATION AND  
URBAN DEVELOPMENT, GEEL EQUITIES LLC,  
REBECCA HOUSTON, UNITED STATES OF AMERICA  
AND BANK LEUMI TRUST CO. OF NEW YORK  
And "John Doe" and/or "Jane Doe" #1-10 inclusive, the last ten names being  
fictitious and unknown to plaintiff, the persons or parties intended being the  
tenants, occupants, persons or corporations, if any, having or claiming an interest  
In or lien upon the premises described in the complaint,

Defendant(s).

-----  
**PLEASE TAKE NOTICE** that the within is a true copy of a **DECISION** and **ORDER**  
duly entered in the Office of the Clerk of the within named Court on the 27<sup>th</sup> day of August 2019.

Dated: August 27, 2019  
Kew Gardens, New York

Yours, etc.,  
**SHIRYAK BOWMAN ANDERSON GILL &  
KADOCHNIKOV LLP**



By: Matthew J. Routh, Esq.  
80-02 Kew Gardens Road, Suite 600  
Kew Gardens, New York 11415

At an IAS Term, Part FRP-1, of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 5<sup>th</sup> day of August 2019.

P R E S E N T:

HON. NOACH DEAR,

J.S.C.

Index No.: 509004/16

MS #1

FEDERAL NAT'L.

Plaintiff,

**DECISION AND ORDER**

*-against-*

ERIC JONES et al

Defendant,

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this

Motion:

**Papers**

**Numbered**

Motion (MS 1)

1

Opp

2

Reply

3

Upon the foregoing cited papers, the Decision/Order on this Motion is as follows:

It is undisputed that Houston was both appointed administrator of Cruz's estate and guardian of his heir prior to the commencement of this action and that Plaintiff named her as a defendant solely based on a potential fee interest she might have in the property (that is, not based on either of the roles to which the Surrogate's Court appointed her). In fact, Plaintiff named "unknown heirs" in the caption in place of the estate – and neither timely served them nor sought a GAL to represent their interest. As such, the estate of Cruz (embodied by Houston in her appointed capacities) was not properly served in this action (without regard to whether service on Houston was completed).

"If the plaintiff fails to take proceedings for the entry of judgment within one year after [a]

default, the court shall not enter judgment but shall dismiss the complaint as abandoned, without costs, upon its own initiative or on motion, unless sufficient cause is shown why the complaint should not be dismissed” (CPLR 3215[c]). In order to avoid dismissal, the plaintiff must demonstrate both a reasonable excuse for the delay in timely moving for a default judgment and that the cause of action is potentially meritorious (*Giglio v NTIMP, Inc.*, 86 AD3d 301, 307-308 [2d Dept 2011]). Plaintiff fails to do so, offering an unsubstantiated, general allegation that it had difficulty locating and serving the heirs (despite the orders from the Surrogate’s proceedings...) and offering no admissible evidence of a meritorious claim.

Motion granted. Case dismissed.

ENTER:



Hon. Noach Dear, J.S.C.

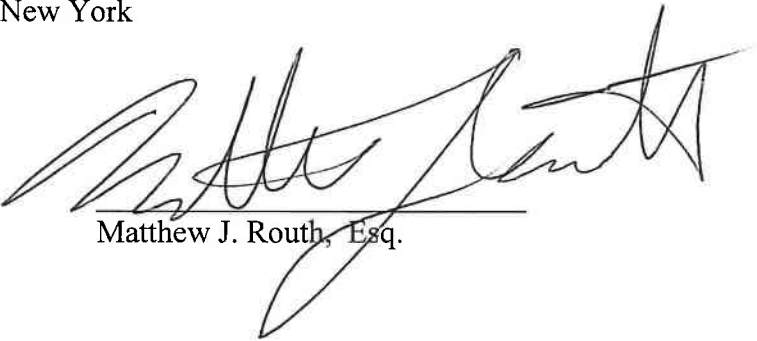
HON. NOACH DEAR

2019 AUG 12 AM 9:42

**ATTORNEY CERTIFICATION**

I, Matthew J. Routh, Esq., hereby certify, under penalty of perjury, and as an officer of the court, that to the best of my knowledge, information and belief, formed after an inquiry reasonably under the circumstances, the presentation of the papers or the contentions herein are not frivolous as defined in 22 NYCRR Section 130-1.1(c).

Dated: August 27, 2019  
Kew Gardens, New York



Matthew J. Routh, Esq.

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK }  
                          } SS:  
COUNTY OF QUEENS }

I, Chelsi Persaud being sworn, say:

I am not a party to the action, am over 18 years of age and reside in Queens, New York.

On August 27, 2019 , I served the within **NOTICE OF ENTRY** by delivering a true copy thereof enclosed in a post-paid wrapper, under the exclusive care and custody of United States Postal Service within New York State, addressed to the following person at the last known address set forth after each name by first class mailing to:

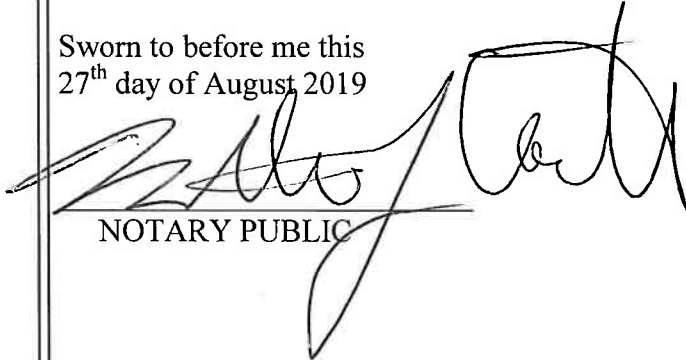
***DAVID A. GALLO & ASSOCIATES LLP***  
99 Powerhouse Road First Floor  
Roslyn Heights, NY 11577

***Beth Patricia Schwartz, Esq.***  
**U S ATTORNEY EASTERN DISTRICT OF NEW YORK**  
271 Cadman Plaza East  
Brooklyn NY 11201

***NEW YORK CITY LAW DEPT***  
***ATTN: KAREN M. ROSS, ESQ.***  
100 Church Street  
New York, NY 10007

MATTHEW J. ROUTH  
Notary Public, State of New York  
Reg. No. 02R06358862  
Qualified in Queens County  
Commission Expires 5/15/21

Sworn to before me this  
27<sup>th</sup> day of August, 2019



NOTARY PUBLIC

  
Chelsi Persaud

FEDERAL NATIONAL MORTGAGE ASSOCIATION, et. al.

Plaintiff,

-against-

Defendant.

ERIC JONES, et. al.

**NOTICE OF ENTRY**

**Shiryak, Bowman, Anderson, Gill & Kadochnikov LLP**

**BY: Matthew J. Routh, Esq.**

**Attorneys for Defendant Jones and Houston**

Office and Post Office Address, Telephone

**80-02 Queens Boulevard**

**Suite 600**

**Kew Gardens, New York 11415**

**(718) 263-6800**

**Fax (718) 520-9401**

**TO**

**Service of a copy of the within  
is hereby admitted.**

**Dated:.....**

**Attorney(s) for**

**PLEASE TAKE NOTICE:**

/ / NOTICE OF ENTRY

that the within is a (certified) true copy of a  
duly entered in the office of the clerk of the within named court on

/ / NOTICE OF SETTLEMENT

that an order  
will be presented for settlement to the HON.  
within named Court, at

of which the within is a true copy  
one of the judges of the

2019 at M.

Dated,

Yours, etc.

**Shiryak, Bowman, Anderson, Gill & Kadochnikov LLP**