

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

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ASSOCIATES ASSET MANAGEMENT, LLC as
ASSIGNEE OF OLYMPIA MORTGAGE CORP.,

Plaintiff(s),

-against-

DECISION & ORDER
Index No. 1744/09

NALINI CHARLES,

Defendant(s).

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Hon. Thomas E. Walsh, II, A.J.S.C.

The following papers numbered 1-14 read on this motion by plaintiff for summary judgment on the grounds that plaintiff has failed to satisfy a promissory note, and, for such other and further relief as this Court deems just and proper:

- Notice of motion/Affirmation in Support/Exhibits-1-7
- Affirmation in Opposition/Affidavit/Exhibits-8-12
- Reply affirmation-13-14

Plaintiff moves for summary judgment on a promissory note as the assignee of the original creditor. The defendant's answer and this motion alleges that plaintiff lacks standing to bring the action or move for summary judgment. Discovery has not yet taken place in this action.

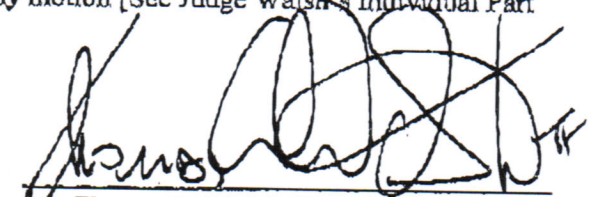
The proponent of a summary judgment motion must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to eliminate any material issues of fact from the case. Failure to make such showing requires denial of the motion, regardless of the sufficiency of the opposing papers [*Winegrad v. New York University Medical Center*, 64 N.Y. 2d 851 (1985)].

On the papers before the Court plaintiff has failed to demonstrate that a valid assignment exists as a matter of law. Therefore plaintiff has failed to meet its initial summary judgment burden by demonstrating, as a matter of law, its standing to bring this action.

Based upon the foregoing the motion is denied and the parties are directed to appear, by counsel, for a discovery conference on August 18, 2010 at 9:30 A.M. at which time a discovery schedule order will issue.

All attorneys are reminded that the Individual Part Rules of this Court require a letter and conference as prerequisites to the submission of any motion [See Judge Walsh's Individual Part Rules §IVA].

Dated: New City, New York
July 19, 2010


Thomas E. Walsh, II, A.J.S.C.

TO:
Smith Carroad Levy, P.C.
Peska & Associates, P.C.