

Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: HONORABLE JANICE A. TAYLOR IAS Part 15  
Justice

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MORTGAGE ELECTRONIC REGISTRATION SYSTEM,  
INC.,

Plaintiff(s),

Index No.:19947/08

Motion Date:05/19/09

- against -

Motion Cal. No.:22

Motion Seq. No: 1

GAIL PALMORE-ARCHER, CITY OF NEW YORK BY  
TRANSIT ADJUDICATION BUREAU, CITY OF NEW  
YORK BY ENVIRONMENTAL CONTROL BOARD, CITY  
OF NEW YORK BY PARKING VIOLATIONS BUREAU,  
and "JOHN DOE" and "MARY DOE", (Said  
names being fictitious, it being the  
intention of plaintiff to designate any  
and all occupants, tenants, persons or  
corporations, if any, having or claiming  
an interest in or lien upon the premises  
being foreclosed herein)

Defendant(s).

-----x

The following papers numbered 1 to 4 read on this motion by the  
plaintiff for an order granting summary judgment, amending the  
caption and appointing a referee.

Papers  
Numbered

Notice of Motion-Affirmation-Exhibits-Service..... 1 - 4

Upon the foregoing papers it is **ORDERED** that the motion is  
decided as follows:

This is an action for foreclosure of the property located at  
164-27 108th Street, Jamaica, New York. Plaintiff Mortgage  
Electronic Registration Systems, Inc. ("MERS") moves, pursuant to  
CPLR §3212, for an order granting summary judgment, amending the  
caption by substituting George Hogan for defendants "John Doe" and  
"Mary Doe", and appointing a referee.

It is well settled that to bring an action of foreclosure, a plaintiff must own both the note and the mortgage at the inception of the action. (See, *Federal National Mortgage Association, v. Youkelsone*, 303 AD2d 546 [2d Dept. 2003]; *Kluge v. Fugazy, et al.*, 145 AD2d 537 [2d Dept. 1988]). It is also well-settled that plaintiff MERS may not prosecute a foreclosure action in its own name where it is acting merely as nominee of the originating lender. MERS must sufficiently demonstrate its ownership in the note and mortgage, to establish that it has standing to commence an action. (See, generally, *Mortgage Electronic Registration Systems, Inc. V. Coakley*, 41 AD3d 674 [2d Dept. 2007]). In the instant action, MERS has not demonstrated, to this court's satisfaction, that it is the owner of the note and mortgage. Accordingly, this application is denied, with leave to renew upon proof that MERS has standing to prosecute this action.

Dated: July 17, 2009

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**JANICE A. TAYLOR, J.S.C.**