

COPY

**SUPREME COURT - STATE OF NEW YORK
IAS/TRIAL PART 9 - SUFFOLK COUNTY**

PRESENT:

Hon. EDWARD D. BURKE
Acting Justice of Supreme Court

Motion R/D : 11/18/05
Adj. Date : 01/04/06
Mot Seq # : 004 MD
CASEDISP

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.,

Plaintiff(s),

- against -

LINDA MORRIS, JACLYN MORRIS, OJ
MEDTECH, INC. 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).

STEVEN J. BAUM, P.C.


Attorneys for Plaintiff(s)
P.O. Box 1291
Buffalo, New York 14240-1291

Upon the following papers numbered 1 to 3 read on this motion by plaintiff for leave to serve and file a supplemental summons and amended verified complaint; Notice of Motion/Order to Show Cause and supporting papers 1 to 3; 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,

ORDERED that this motion (#004) for an order granting the plaintiff leave to serve and file a supplemental summons and amended verified complaint to add the purported new owner of the mortgage by reason of an assignment by the above captioned plaintiff is considered under CPLR 3025 and is denied. The plaintiff claims that the proposed new plaintiff, who has not appeared herein, is the owner of the note and mortgage at issue pursuant to an assignment made by the plaintiff, Mortgage Electronic Registration Systems, Inc. Unfortunately, the plaintiff was not the owner of the note and mortgage at the time of the execution of the assignment. Since the plaintiff, Mortgage Electronic Registration Systems, Inc., was without ownership of the note and mortgage at the time of the execution of the assignment, said assignment did not pass ownership of the note and mortgage to the proposed new plaintiff.

In view of the foregoing, the instant motion is denied. The proposed order attached to the moving papers has been marked "**Not Signed**" and the within action is dismissed pursuant to CPLR 3215(c).

Dated: January 12, 2006.


EDWARD D. BURKE, A.J.S.C.

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