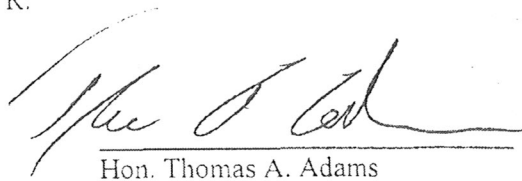


LEXIS 8583; Deutsche Bank Natl. Trust Co. v Heitner, 2018 NY App Div. LEXIS 7050 cf. Citimortgage, Inc. v Banks, 155 AD3d 936). Each of the cross movants' October 22, 2018 affidavits explicitly deny receiving, inter alia, copies of the RPAPL §1304 notices by first-class mail (para 5). The Plaintiff has therefore failed to establish its prima facie entitlement to judgment as a matter of law while the cross movants have established their prima facie entitlement to judgment as a matter of law dismissing the complaint insofar as asserted as asserted against them (see Aurora Loan Services, LLC v Weisblum, 55 AD3d 95, 106). Accordingly, the Plaintiff's motion, pursuant to CPLR 3212 and RPAPL §1321, for summary judgment and the appointment of a Referee to compute is denied and the Defendant's cross motion, pursuant to CPLR 3212, for summary judgment dismissing the action due to its failure to strictly comply with RPAPL §1304 is granted.

ENTER:

Date: February 1, 2019



Hon. Thomas A. Adams
Supreme Court Justice

ENTERED

FEB 04 2019

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