

STATE OF NEW YORK
SUPREME COURT, COUNTY OF

_____,
Plaintiff

Index no.:
R.J.I. no.:

vs.
Defendant

Hon. _____

AFFIDAVIT IN SUPPORT OF MOTION FOR REFERENCE

_____, _____, being duly sworn, deposes and says:

1. I am _____ in this action, and I make this affidavit in support of the Plaintiff's application for a reference in this action, because I am personally familiar with the facts set forth.

2. This action has been brought to obtain an accounting by the Defendant; the appointment of a receiver; the sale of the property and a division of the proceeds among the parties according to their respective rights and interests, after payment of the costs of this action; for creation of a court-ordered individual Third-Party Supplemental Needs Trust for the benefit of the Plaintiff funded by the Plaintiff's proceeds of said sale; and for such other and further relief as may be just, together with the costs and disbursements of this action.

3. Service of the Summons and Complaint, Notice of Pendency and Order Permitting Plaintiff to Proceed as a Poor Person was made upon the Defendant, _____, on _____, a copy of the Affidavit of Service hereto annexed. The Defendant has not appeared or answered, nor made any motion raising any objection to the complaint, although the time for the Defendant to plead or make such motion has expired.

4. A Notice of the Pendency of this action, stating the names of the parties and the object of the action, and containing a description of the property affected thereby, was filed, with the verified complaint herein, in the office of the Clerk of _____ County, State of New York, being the county in which said property is situated, on the ____ day of _____, _____.

5. The Plaintiff has not resided in the property since _____ when he was forced out.

6. The Plaintiff's mother received _____ dollars (\$_____) monthly rents, in addition to occupying the premises, prior to her death in _____. (Verified Complaint, paragraph ____). The value of the occupancy of the entire property since then, upon information and belief, has appreciated.

7. According to the public record, the tax assessor currently estimates the full market value of the property at _____ dollars (\$_____).

8. The Plaintiff respectfully withdraws his request for a receiver, and requests the appointment of a referee to ascertain and report the rights, shares, and interests of both parties in the property to be partitioned, including amounts owed to the Plaintiff from the Defendant for his ouster and her sole occupancy of the property, and any collection of third-party rents, since _____, as well as for her sale of jointly owned furnishings.

Dated:

(signature above)

Name, address, phone number

STATE OF NEW YORK
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NOTICE OF MOTION FOR REFERENCE AFTER DEFAULT

PLEASE TAKE NOTICE that upon the Summons and Complaint herein, with proof of due service thereof upon the Defendant, and upon the annexed Affidavit of _____, sworn to on _____, and the annexed Affidavit of _____, sworn to on _____, the undersigned will move this court at a Term thereof, to be held at _____, 32 Chestnut Street, _____, County of _____, and State of New York, on the ____ day of _____, 20__ at 9:30 a.m., or as soon thereafter as counsel can be heard, for an order pursuant to Real Property Actions and Proceedings Law Section 911, appointing a referee to ascertain and report the rights, shares, and interests of the parties in the property sought to be partitioned in this action, and for such other and further relief as to the court may seem just and proper.

Date:

(signature above)
Name, address, phone number

At a term of the Supreme Court of the State of New York held in and for the County of _____ at the _____, _____, New York, on the ____ day of _____, 20__.

STATE OF NEW YORK
SUPREME COURT, COUNTY OF

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**Order of Reference to Inquire and Report Rights of Parties
Before Interlocutory Judgment**

Upon the Affidavit of the Plaintiff sworn to on _____, the Affidavit in Support of Motion for Reference of _____, sworn to on _____, and the Notice of Motion for Reference After Default dated _____, with proof of service thereof, and

Upon the Affidavit in Response to Motion of _____, attorney for the Defendant, sworn to on _____, offering no opposition to the Plaintiff's motion for the appointment of a referee and consenting to the partition of the subject property, including the sale of the subject property, it is

ORDERED that _____, an attorney and counselor of this court, be, and he/she hereby is, appointed referee in this action to ascertain and report the rights, shares, and interests of the parties in the property described in the complaint and sought to be partitioned in this action.

Signed this _____ day of _____, 20__, at _____,
New York.

ENTER,

Hon.
Supreme Court Judge