

CAPTION

Index No. -----

NOTICE OF MOTION  
ON SUBMISSION

Assigned Judge:  
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TAKE NOTICE that, upon the annexed affidavit of \_\_\_\_\_, the Plaintiff/Defendant herein, dated \_\_\_\_\_, the exhibits annexed thereto, and upon all the pleadings and prior proceedings heretofore had herein, we shall make a motion at a IAS Part of this Court, to be held at the \_\_\_\_\_ County Courthouse, \_\_\_\_\_ (address), on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ am/pm, or as soon thereafter as the Plaintiff/Defendant can be heard for an order (1) discontinuing the instant action; (2) cancelling the *lis pendens* filed against the premises which are the subject of the instant foreclosure action; and (2) for such other and further relief as the Court deems just and equitable. The above entitled action is for the foreclosure of a mortgage.

TAKE FURTHER NOTICE that, pursuant to CPLR 2214(b), that answer affidavits, if any, must be served so that they will arrive at the address below at least seven (7) days before the time at which this motion is noticed to be heard.

Dated: -----

\_\_\_\_\_  
 (Name signed above, name typed below  
 with address and phone number)

To: Names and addresses of all other *pro se* parties or their counsel

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Index No. -----

AFFIDAVIT IN SUPPORT  
OF MOTION

Assigned Judge:  
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State of New York        )  
County of -----     ) ss.:

Name, being duly sworn, deposes and says:

1. I am the Plaintiff in the above-captioned matter. I submit this affidavit in support of an order pursuant to CPLR 6514 to cancel the notice of pendency heretofore filed herein and to discontinue the within action without prejudice.

2. This action was instituted by service of a summons and complaint upon all defendants, all of which more fully appear on the attached copies of the affidavits of service (Exhibit A).

3. With attempts to settle the within action having come to fruition, the Plaintiff avers that it is in the best interests of all parties and in the interests of judicial economy to discontinue the action and cancel the notice of pendency heretofore filed in the Office of the Clerk of the County of ----- on ----- (Exhibit B). This foreclosure action is being discontinued due to reinstatement of the mortgage.

4. The within action is not on the calendar.

5. No similar requests have been made for the relief sought herein.

WHEREFORE, it is respectfully requested that the order of this Court discontinuing the action without prejudice, and cancelling the notice of pendency without cost to any of the parties.

Dated: -----

\_\_\_\_\_  
(Sign name above, type name below)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public: State of New York

\*\*\*\*\*SUBMIT A PROPOSED ORDER AS WELL.

\*\*\*\*\*After the other parties have been served with the Notice, Affidavit, Exhibits and Proposed Order, an Affidavit of Service must be filed with the Court.