

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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STEVEN W. FISHER, J.P.
ANITA R. FLORIO
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON, JJ.

2008-02582

DECISION & ORDER ON APPLICATION

Citibank, N.A., plaintiff, v
Joseph Brach, et al., defendants.

(Index No. 18669/06)


Application by the plaintiff pursuant to CPLR 5704(a) to vacate an ex parte order of the Supreme Court, Kings County (Jacobson, J.), dated January 22, 2008, which, in an action to foreclose a mortgage, denied its ex parte application for an order of reference.

ORDERED that the application pursuant to CPLR 5704(a) is granted, the order of January 22, 2008, is vacated, the plaintiff's application for an order of reference is granted, and the matter is remitted to the Supreme Court, Kings County, for the entry of an appropriate order appointing a referee.

As the plaintiff's papers on their face established the plaintiff's entitlement to the relief sought (*see Village Bank v Wild Oaks Holding*, 196 AD2d 812; *see also Federal Home Loan Mtge. Corp. v Karastathis*, 237 AD2d 558; *DiNardo v Patcam Serv. Stat.*, 228 AD2d 543), the Supreme Court should have issued the order of reference as requested by the plaintiff.

FISHER, J.P., FLORIO, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

October 23, 2008

CITIBANK, N.A. v BRACH