

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Eastern Savings Bank, FSB v. Linford W. Johnson, Individually, and as Administrator of the Estate of Mulvina Eccleston; New York City Environmental Control Board, Michael Johnson, William Robinson, Arlene Williamson, Kalich Williamson, and Agatha Johnson

No. 13-cv-6070 (AMD)(ST) (E.D.N.Y. Dec. 9, 2025) (report and recommendation) · No. 13-cv-6070 (AMD) (ST) · Decided December 9, 2025

SUMMARY

The court recommends that the District Court issue a writ of assistance under the All Writs Act and Federal Rule of Civil Procedure 70 to remove occupants from property purchased at a foreclosure sale. The recommendation concludes that the foreclosure judgment granted the purchaser possession and that the occupants failed to vacate or oppose the writ motion. The parties were advised of their fourteen-day period to object.

CASE DETAILS

COURT	United States District Court for the Eastern District of New York
WRITING FOR THE COURT	Steven Tiscione
JURISDICTION	United States District Court for the Eastern District of New York
DECIDED	December 9, 2025
DOCKET	13-cv-6070 (AMD)(ST)
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on Plaintiff's unopposed motion for an order to show cause and a writ of assistance under the All Writs Act following a completed foreclosure sale.
STANDARD OF REVIEW	The report and recommendation was subject to de novo review of timely objections under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(2).
PRECEDENTIAL VALUE	Nonprecedential magistrate judge report and recommendation; subject to district judge review and adoption.

TOPICS

foreclosure

remedies

ejectment

civil procedure

PRACTICE AREAS

foreclosure

real estate

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether the court should recommend issuance of a writ of assistance to enforce the foreclosure judgment and remove occupants who refused to vacate the property.
2. Whether the All Writs Act, Federal Rule of Civil Procedure 70, and New York Real Property Actions and Proceedings Law § 221 authorize the requested enforcement relief.

HOLDINGS

1. The court recommended that the District Court issue a writ of assistance authorizing removal of the occupants and granting ESB access to the foreclosed property.

KEY QUOTATIONS

“Rule 70 provides for the enforcement of the specific terms of a judgment.” (at 2)

“At bottom, ESB holds a valid judgment granting it possession of the property. The occupants are in violation of that judgment.” (at 3)

FACTUAL BACKGROUND

Melvina Eccleston executed two secondary mortgages and notes in favor of Eastern Savings Bank in the principal amount of \$113,500, with Linford Johnson as guarantor. Eccleston defaulted on the loans, and the loans remained outstanding. ESB obtained a foreclosure judgment, purchased the property at auction, and obtained an adjudicated right to possession, but the occupants continued to remain at the property despite repeated notice and did not oppose the requested writ.

PROCEDURAL HISTORY

Eastern Savings Bank filed the foreclosure action in 2013 and obtained summary judgment of foreclosure and sale on March 15, 2023. After a bankruptcy-related delay, the property was sold at auction to ESB, which assigned its winning bid to a subsidiary. Because the occupants refused to vacate, ESB moved on March 26, 2025, for a writ of assistance. The district judge referred the motion to Magistrate Judge Tiscione for a report and recommendation; the occupants did not oppose the motion after being given an opportunity to respond.

DISPOSITION

other

CASES CITED

- *Manway Construction Co. v. Housing Authority of City of Hartford*, 711 F.2d 501, 505 (2d Cir. 1983)

- Marcella v. Capital District Physicians' Health Plan, Inc., 293 F.3d 42, 46 (2d Cir. 2002)
- Small v. Secretary of Health & Human Services, 892 F.2d 15, 16 (2d Cir. 1989)
- Thomas v. Arn, 474 U.S. 140 (1985)

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