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June 25, 2021

**VIA FEDERAL EXPRESS
OVERNIGHT DELIVERY**

Clerk of the New York Court of Appeals
Attn: John P. Asiello, Chief Clerk & Legal Counsel to the Court
20 Eagle Street
Albany, New York 12207

Re: *Krystallo Hetelekides, et al., v. County of Ontario, et al.*
APL-2021-00111
Appellant's Jurisdictional Response - Filed in Accordance with
Clerk's Permission Extending Due Date to June 28, 2021

Dear Madam or Sir:

Retention of subject matter jurisdiction is warranted in this case because the facts present substantial constitutional questions directly involved in the Appellate Division's Order.

As demonstrated below, the constitutional questions at bar are not predicated upon a general claim that the Appellate Division's order constituted a denial of due process; rather at bar is an appeal of an Appellate Division order that turns precisely upon an analysis of a property owner's due process rights to notice in the context of an *in rem* foreclosure proceeding where the municipality knew, before expiration of the redemption period, that the sole property owner, James Hetelekides, had passed away and could not have received any notices of the proceeding.

It has been recognized that whether a particular constitutional issue is sufficiently substantial to warrant an appeal as a matter of right, is generally speaking, a matter of judgment, to be determined on the facts of the individual case. Arthur Karger, *The Powers of the New York Court of Appeals* § 7.5 at 228 (3d ed rev 2005).

This Jurisdictional Response is supported by the Joint Record filed in support of the appeal to the Appellate Division, Fourth Department. The Joint Record consists of Volume 1 (pp 1-636) and Vol 2 (pp 637-1272) and is available on the Court of Appeals Companion Filing Upload Portal for Civil Motions. Citations to the Joint Record in this Jurisdictional Response are referred to as ADRec Vol ____, pg ____. In addition, the briefs filed with the Fourth Department are available on the Court's portal.

In summary, the facts, set forth below, establish that despite acknowledging the taxpayer's death during a December 2006 meeting with Ontario County's attorney, the Treasurer and Ontario County failed to (1) suspend the *in rem* proceeding, (2) seek an appointment of a temporary estate administrator, or (3) apply for substitution of an interested party that could receive notice. Instead, the County Treasurer made two telephone calls to the property, an operating restaurant, and a three-minute visit to the property, all of which occurred during the week of the property redemption deadline.

The record establishes that the Treasurer did not speak with any person with an interest in the property as the result of either the telephone calls or his visit to the property. Within a few days after expiration of the redemption period, the deceased property owner's widow offered and demonstrated the ability to tender the past due tax, which was an amount less than \$23,000. This offer was made during her visit to the Treasurer's office, after she had been previously told by employees of the Treasurer's office and the Town of Hopewell, that the taxes had been paid.

While Ontario County was authorized to sell the property to Appellant after expiration of the redemption period pursuant to RPTL § 1166, the Ontario County Board of Supervisors voted on March 29, 2007 against granting Appellant the opportunity to purchase the property for the value of the past due taxes and avoid a foreclosure sale. The record establishes that the Treasurer and the County Attorney withheld information from and expressly misled the Board of Supervisors during the Board's consideration of Appellant's request to purchase the property. The Treasurer submitted a misleading memorandum discouraging the Board from authorizing a sale to Appellant pursuant to RPTL § 1166. The auction sale was conducted in May 2007 and Appellant was forced to pay \$160,000 to purchase the property, thereby creating a windfall surplus to Ontario County of \$138,656.83.

In vacating all of the monetary relief afforded by the Trial Court' Order, the Appellate Division held that Respondents were entitled to rely upon the notices mailed and procedures called for by RPTL § 1125, notwithstanding that the taxpayer could not have received the notice, and “*assuming arguendo* that due process did require more under the circumstances of this case (*but see Matter of County of Ontario [Helser]*, 72 AD3d 1636, 1637 [4th Dept 2010]; *Barnes*, 25AD3d at 956)” that defendants took steps beyond what was required in the statute in an attempt to provide notice to interested persons (*see Bender v City of Rochester*, 765 F2d 7,9-12 [2d Cir 1985]; *cf. Orra Realty Corp. v Gillen*, 46 AD3d 649,651 [2d Dept 2007], *lv denied* 10 NY3d 712 [2008]”. Preliminary Appeal Statement Attachment B, pg 5 (hereinafter “Pre. App. St. Att. _”).

In other words, the Appellate Division's Order upholds the constitutionality of unsuccessful attempts to provide verbal notice of a pending *in rem* proceeding to anyone potentially possessing an interest in the Property and specifically Appellant, the surviving spouse of the deceased sole property owner, where the municipality possessed actual knowledge that the sole property owner had passed away and could not have received notice. The constitutional questions arise on the basis of Respondents' conduct that consisted of knowingly proceeding with an *in rem* proceeding against a deceased property owner coupled with the failure to provide notice to any other living person. The trial court characterized Respondents' conduct as “missteps” Pre. App. St. Attachment C, Decision and Order, pg. 10.

The jurisdictional predicate requiring a substantial constitutional question is met in this case because the constitutional questions, examined within the context of the facts of this case, are of great importance.

Further, the constitutional questions are directly involved in the Appellate Division-Fourth Department's Order, the practical result of which permits a municipality to ignore its actual knowledge about the status of the sole owner of the property in favor of proceeding with an *in rem* foreclosure, even against persons known to be deceased, regardless of the sufficiency of the municipality's notice attempts. The Fourth Department allowed Ontario County to rely upon a presumption of notice because notices were sent to the Property addressed to the deceased property owner.

The constitutional questions at bar are not resolvable based on settled law. Indeed, the Appellate Division's Order directly conflicts with the constitutional due process analysis and outcomes mandated by the Supreme Court Appellate Division,

Second Department in *In the Matter of Foreclosure of Tax Liens (“Goldman”)*, 165 AD3d 1112 (2d Dept. 2018), *lv dismissed* 35 N.Y.3d 998 (2020) (foreclosure proceeding declared a nullity because it was commenced against deceased individuals; further recognizing the constitutional importance of separate consideration of the jurisdictional basis and the requirement of notice because both are products of due process and each is essential to jurisdiction). Pre. App. St. Att. B, pg. 5. (“We agree with defendants that *Goldman* should not be followed and that the remaining cases cited by the court are distinguishable”).

Further, the Appellate Division’s Order is decisive of the constitutional questions at bar because those determinations can only be supported on the basis of the 14th Amendment of the U.S. Supreme Court and Article I, § 6 of the New York Constitution, the underpinnings for evaluating whether due process has been satisfied within the context of an *in rem* tax foreclosure proceeding.

PROCEDURAL STATUS

The facts relevant to this jurisdictional predicate evaluation are the subject of a trial record developed at a bench trial conducted over the course of three days that includes trial testimony of 11 witnesses, a total of 24 trial exhibits including Trial Exhibit 1, the parties’ Stipulation of Undisputed Facts (numbering 23) followed by Appellants’ Proposed Findings of Fact and Conclusions of Law (ADRec Vol 2 pg 750-774) and Respondents’ Proposed Findings of Fact and Conclusions of Law ADRec Vol 2 pg 775- 792. The trial court’s Decision, Order and Judgment and the Appellate Division’s Memorandum and Order are attached to Appellants’ Pre. App. St., Atts. C and B, respectively.

The Appellate Division’s Order modified the trial court’s order (Supreme Court-Ontario County/ Hon. John Ark); held that minimal /due process noticing required by the federal and state constitutions had been satisfied; declined to follow *Goldman*, including its holding applying personal jurisdiction principles to *in rem* proceedings and vacated the monetary financial remedies afforded to Appellant by the trial court’s Order (judgment for value of windfall plus pre-and post- judgment interest); upheld denial of respondents’ summary judgment motion and affirmed the trial court’s dismissal of Appellants’ claims stated under 42 U.S.C. § 1983 (constitutional tort) and 1988 (recovery of costs including attorneys’ fees by prevailing party). Pre. App. St. Attachment B pg 1.

THE RECORD

At bar is an action commenced in 2008 to challenge the validity of an *in rem* auction sale of commercial property located at 4025 Routes 5 & 20 in the Town of Hopewell, New York (“Property”) by Ontario County under the direction of its Treasurer, Gary G. Baxter pursuant to Real Property Tax Law, Article 11.

The facts relevant to the constitutional questions at bar relate to events that occurred during four time periods: (1) the time period during the conduct of the *in rem* proceedings measured from October 2, 2006 through the redemption date of January 12, 2007; (2) the time period during which Appellant offered to tender payment in full of the past due taxes (January 16, 2007 – February 8, 2007), the latter date being the date Ontario County submitted an application for a default judgment to the trial court presiding over the *in rem* proceeding; (3) the time period following the date of the application for a default judgment through March 29, 2007, the date the Ontario County Board of Supervisors decided that it would not permit Appellant to redeem the property and that the auction sale would proceed; and (4) the time period from March 29, 2007 to June 1, 2007.

October 2, 2006 - January 12, 2007

On October 2, 2006, over two months after the death of James Hetelekides, Appellants sent notices of pending foreclosure proceedings by certified mail to “James Hetelekides”, “Hetelekides, James” and “Geo-Tas, Inc.” (“Notices”) to the Property. ADRec Vol 1 pg 544 [Plaintiff’s Ex.1 Stipulation ¶ 8]; ADRec Vol 2 pg 693 – 695 [Defendants’ Ex. D].

James Hetelekides was the sole owner of the Property and Geo Tas, Inc. was not in title to the Property. ADRec Vol 1 pg 544 [Ex. 1 Stipulation ¶ 1].

Prior to expiration of the redemption period, Krystal Hetelekides visited Hopewell Town Hall (Town in which Property was located) and the Ontario County Treasurer’s office in Canandaigua, New York to determine if taxes were owed on the Property. She was provided conflicting information but ultimately was advised that no taxes were due. ADRec Vol 1 pg 122, 126-129; 143-149 [Appellant’s Trial Testimony; adopted by Trial Court ADRec Vol 1 pg. 14-15 Decision]

In December 2006, Appellant Baxter met with Ontario County Attorney, Gary Curtiss, Esq. and the Treasurer’s office staff to review properties that were slated for

public auction unless past due taxes were paid for by the redemption date of January 12, 2007. ADRec Vol 1 pg 363-64 [Baxter Testimony]; 603-04 [Plaintiff's Ex. 6 Baxter Jan. 3, 2007 Email]. Appellant Baxter admitted he knew the Property owner, James Hetelekides, had died. [Baxter Testimony]. During this December 2006 meeting, County employees, including County Attorney Gary Curtiss and Appellant Baxter discussed James Hetelekides' death. ADRec Vol 1 pg 471. Respondents knew that the October mailed notices, could not have been received by the property owner. In fact, Respondents knew that the notices had been signed for by an individual named Barb Schenk. [Plaintiff's Ex.1 Stipulation ¶ 8]; ADRec Vol 2 pg 693 – 695 [Defendants' Ex. D].

Acknowledging that notice was warranted, Baxter telephoned the restaurant on January 9 and 10, 2007 and then visited to the property on January 11, 2007 for three minutes. ADRec Vol 1 pg. 365-68 [Baxter Testimony]; ADRec Vol 2 pg 700 [Defendants' Ex. H]. It is undisputed that Baxter never mentioned the *in rem* foreclosure proceeding or the January 12 redemption deadline during his phone calls or visit. ADRec Vol 1 pg 470 [Baxter Testimony]. Respondent Treasurer failed to ask for Mrs. Hetelekides or anyone with the surname of Hetelekides during any of these three attempts to provide notice. ADRec Vol 1 pg 470 – 472 [Baxter Testimony].

During the three-minute visit to the Property, the Treasurer inquired about the availability of an “owner”, “a manager” or “someone in charge”. ADRec Vol 1 pg 368 [Baxter Testimony]. Respondent Treasurer knew that the sole owner was deceased. ADRec Vol 1 pg 471 [Baxter Testimony]. Yet, he did not ask to speak with Mrs. Hetelekides or anyone with the surname of Hetelekides even though the Treasurer knew that the deceased property owner's surviving spouse was alive. ADRec Vol 1 pgs 472-73.

When the Treasurer visited the property on January 11, 2007, he did not take a copy of the foreclosure notice or even the certified return receipt cards with him. ADRec Vol 1 pg 469-70. The only written material left by the Treasurer was his business card. ADRec Vol 1 pg 147-48 [Appellant's Testimony]; 368-369 [Baxter Testimony]. Again, the Treasurer admits he left without speaking with anyone about the impending foreclosure. ADRec Vol 1 pg 470. Thus, as of January 11, 2007 (the day before expiration of the redemption period), Respondents had not successfully delivered any notice of the *in rem* proceeding to any person, whether a representative of the deceased taxpayer's estate or anyone with the surname of “Hetelekides”. In fact, after determining notice was required during the December 2006 meeting,

Respondents failed to provide any notice of taxes owed, the deadline to pay taxes, or of a foreclosure proceeding.

January 16, 2007- February 8, 2007

Appellant found the Treasurer's business card as a result of his visit on January 11, 2007. ADRec Vol 1 pg 149-51 [Appellant's Testimony]. In an effort to respond to the Treasurer's business card, she returned to the Treasurer's office on January 15, 2007, only to discover it was closed for Martin Luther King, Jr. Day. ADRec Vol 1 pg 151-52 [Appellant's Testimony]. Also, she called the Treasurer's office and left a voicemail message about her previous inquiries regarding taxes and the information imparted to her by a member of the Treasurer's staff. ADRec Vol 1 pg 151-152 [Appellant's Testimony]. Respondents failed to retain the voicemail message even though the Treasurer and the County employees were aware of the need to do so. ADRec Vol 1 pg 266-67.

On January 16, 2007, Appellant returned to the Treasurer's office spoke with the Treasurer and offered to pay the taxes. ADRec Vol 1 pg 544 [Ex. 1 Stipulation ¶ 13] The Treasurer refused the offer. ADRec Vol 1 pg 152-53 [Appellant's Testimony].

Despite the foregoing, Respondents applied for a default judgment on February 1, 2007, which was granted and then entered on February 8, 2007. ADRec Vol 2 pg 705-707 [Defendants' Ex. N]. Notably, the application was supported by the Treasurer's notarized statement that "notices were mailed to each owner by certified mail, and to all other others by ordinary first -class mail." ADRec Vol 2 pg698 [Defendants' Ex. G]. Respondents did not provide any specific information to the trial court presiding over the *in rem* proceeding concerning their awareness that James Hetelekides, the person named in the proceeding, had passed away before the notices were mailed; the alternative noticing steps undertaken by Respondents because of the knowledge of the taxpayer's death; and/or the efforts of the taxpayer's widow to ascertain the status of the property and pay the tax.

February 9, 2007 -March 29, 2007

After Appellant visited the Treasurer's office on January 16, 2007 she retained an attorney and made an appeal to the Financial Management Committee of Ontario County Board of Supervisors on February 28, 2007 during which Appellant's attorney presented her ability to pay the past due taxes and thereby avoid an auction sale, as permitted by RPTL § 1166. ADRec Vol 1 pg 545 [Ex. 1 Stipulation ¶ 16].

Meanwhile, Respondents pursued a strategy to withhold facts about this matter from the Ontario County Board of Supervisors. ADRec Vol 2 pg 678 [Plaintiff's Ex. 14 (email communication between County Attorney and the Treasurer declaring success in preventing the Board of Supervisors from discussing individual properties in the *in rem* proceeding)]; ADRec Vol 1 pg 609 [Plaintiff's Ex. 10 (Treasurer's Memo to the Ontario County Board of Supervisors in which he misrepresents that Mrs. Hetelekides signed for the foreclosure notice that was delivered by mail)]. No effort was made to clarify and/or rectify the record and in fact, the Treasurer failed to disclose to the Board of Supervisors that County officials had in December 2006 identified the Property as requiring notice. ADRec Vol 1 pg 522 [Baxter Testimony], 609 [Plaintiff's Ex. 10].

On March 29, 2007, Supervisor Green introduced a resolution to permit Mrs. Hetelekides to redeem the Property in accordance with an offer that was in excess of the amount of the past due taxes, but the Ontario County Board of Supervisors did not vote in favor of affording this relief. ADRec Vol 2 pg 672-73 [Plaintiff's Ex. 12 (Minutes of Ontario County Board of Supervisors)].

March 29, 2007 -June 1, 2007

No further action was taken by the parties and an auction sale occurred on May 9, 2007, resulting in a sale of the property for \$160,000 by Pavlos Panitsidis, who in turn assigned the bid to Appellant. ADRec Vol 1 pg 545 [Plaintiff's Ex. 1, Stipulation ¶¶ 20, 21].

Appellant paid the bid price with funds borrowed from friends, members of the community, and a local bank. All bid funds provided by friends and/or family members \$110,000 were repaid by Appellant ADRec Vol 1 pg 159-60 [Appellant's Testimony]; the bank loan was taken out on June 1, 2007 in the principal amount of \$50,000. ADRec Vol 1 pg 547-74 [Plaintiff's Ex. 2, Holman Affidavit].

CONSTITUTIONAL QUESTIONS PRESERVED AND PRESENTED
BY THE APPELLATE DIVISION ORDER

1. Whether Respondents' decision to proceed with the *in rem* tax foreclosure proceeding to an auction sale, pursuant to RPTL Article 11, with knowledge that the sole property owner had passed away prior to the date notices called for by RPTL § 1125 were mailed, violated the 14th Amendment of the U.S. Constitution and Article I, § 6 of the New York Constitution prohibitions against the

taking of property without notice and an opportunity to be heard, because knowledge about the sole property owner's death required that Respondents suspend the *in rem* proceeding as it related to the deceased property owner so that appointment and substitution of an estate representative could be effectuated under CPLR 1015?

2. Whether continuing with the *in rem* tax foreclosure proceeding, despite knowing that the sole property owner had passed away prior to the date notices called for by RPTL § 1125 were mailed, violated the 14th Amendment of the U.S. Constitution and Article I, § 6 of the New York Constitution prohibitions against the taking of property without notice and an opportunity to be heard in that Respondents were not entitled to rely upon the presumption that arises upon proof of mailing and/or the verbal notice attempts made on January 9, 10 and 11 because neither the two phone messages nor the three minute visit to the Property constituted notice reasonably calculated under all the circumstances, to apprise interested parties of the pendency of the action?

3. Whether, under the facts at bar, the only additional noticing that would pass constitutional muster in this case was limited to noticing as called for by *Goldman*, and the failure to provide such notice mandates that the *in rem* proceeding be declared a nullity pursuant to an order to include an award of compensatory damages as a remedy for violations of due process rights?

The foregoing questions, 1-3 are directly presented by the Appellate Division's Order, which addresses and construes decisions from federal and New York state courts, in relationship to a property owner's federal and New York State constitutional due process rights in the context of *in rem* tax foreclosure proceedings pursuant to New York Real Property Tax Law, Article 11. Pre. App. St. Attachment B, pgs. 4-7.

Constitutional Due Process Principles: Analysis of the Holdings In *Goldman* and the Appellate Division's Order Establish A Substantial Constitutional Question Directly Involved In the Appellate Division's Order

Analysis of the Appellate Division's Order juxtaposed with the analysis of the requirements necessary to afford due process in the context of *in rem* proceeding pursuant to RPTL Article 11, further demonstrates the existence of a substantial constitutional question. In *Goldman*, the Appellate Division-Second Department upheld the trial court's dismissal of a tax foreclosure proceeding because the

enforcing county, with knowledge of the taxpayer's death, failed to substitute a personal representative of the deceased party's estate. *Id.* at 1117.

Procedurally, the Second Department found that the *in rem* proceeding "was a nullity from its inception" because "the record owners of the subject property had passed away before the proceeding was commenced. *Id.* Further, the Appellate Division held that "even if the proceeding had been properly commenced against the record owners... once the County and the Supreme Court were made aware of their deaths, it was incumbent upon the County to substitute a personal representative of the deceased parties' estates before the matter could proceed. *Id.* (citing CPLR 1015 (a), 1021, *Singer v Riskin*, 32 AD3d 839 [2nd Dept. 2006]).

In reaching its decision, the *Goldman* court recognized United States Supreme Court precedent rejecting the "fiction that an *in rem* proceeding is not asserted against any individuals, but only against the property itself". *Goldman*, at 1120 and cases cited therein. "...[p]ersons claiming an interest in real property that is a subject of an *in rem* proceeding 'are entitled to notice that functionally approximates the service of process that is employed in *in personam* actions.'" *Id.*

Further, *Goldman* recognizes when a municipality utilizes *in rem* proceedings to take title to privately owned property under circumstances where the municipality may realize a substantial windfall in the event of the taxpayer's default, there are substantial property interests at stake such that "it is imperative for the courts to continue to safeguard the due process rights of those whose property is threatened by ensuring that notice is adequate to support the exercise of personal jurisdiction over them." *Goldman* at 1122-23.

Goldman establishes a bright line rule for those cases in which the taxpayer has passed away and could not have received notice, the objective of which is to ensure that proper notice is afforded. The objective is not a novel concept. *See e.g.*, *Jones v Flowers*, 547 U.S. 220, 227 (2006)(addressing the evaluation of notice and citing *Covey v Town of Somers*, in which it was held that evaluation of adequacy of notice turned on knowledge of Town officials that the property owner was incompetent). *Goldman* recognizes that under certain circumstances, such as when there is knowledge that the property owner could not have received the notice, the presumption that arises upon proof of compliance with RPTL §1125 is rebutted and the enforcing municipality must take steps to provide notice that functionally approximates service of process employed in *in personam* actions.

This Court, on its own motion, and without an opinion, dismissed the enforcing county's appeal on the ground that no substantial constitutional question was directly involved and denied the motion for leave to appeal. As a result, the due process noticing analysis, outcome and bright line rule in *Goldman* were not disturbed.

In contrast, the Appellate Division's Order creates an irrebuttable presumption that arises upon proof of compliance with the form and content of the foreclosure noticing mandated by RPTL Article 11, § 1125.

In this case, the presumption was not, indeed could not be overcome by proof of the municipality's actual knowledge that the taxpayer has passed away and could not have received notice, because Respondents provided evidence of additional noticing attempts, even when those additional noticing steps consisted of unsuccessful attempts to provide verbal notice not directed to anyone with an interest in the property. Pre. App. St. Attachment B pg 5. This position contrasts with *Goldman* wherein the Appellate Division-Second Department recognized "that 'notice by publication is a poor and sometimes a hopeless substitute for actual service of notice'. *Goldman* at 1120 and cases cited therein.

Throughout the pendency of this case Respondents have relied upon the presumption that arises upon proof of its adherence with the statutory procedures set forth in RPTL § 1125 (2) (requiring notice consisting of a copy of the petition and, if not substantially the same as the petition, the public notice of foreclosure... and a statement the text of which is mandated by § 1125). Yet, the additional noticing steps attempted by Respondents to address the fact that the taxpayer could not have received the written notices mailed in October 2006 only consisted of verbal notice that would not have informed anyone of the information called for by RPTL § 1125 (2).

In this case, the Appellate Division's Order stands for the proposition that additional noticing need not be of the same substance and/or quality as the notice mandated by RPTL § 1125 (2); moreover, virtually any attempted additional notice will pass constitutional muster for purposes of justifying a taking of property pursuant to an *in rem* proceeding. In this sense, the Appellate Division's Order creates an irrebuttable presumption associated with proof of compliance with RPTL § 1125. This outcome demonstrates a substantial constitutional question directly involved in the Appellate Division's Order.

In addition, the Appellate Division's Order conflicts with *Goldman's* holding that, as a matter of constitutional law, the prohibition against commencing or maintaining an action or proceeding against a deceased individual applies to all judicial proceedings, including special proceedings. The Appellate Division's Order draws a distinction between the quality of the notice to be given in an *in rem* proceeding and the quality of notice to be afforded in other types of judicial actions, a distinction expressly rejected in *Goldman*.

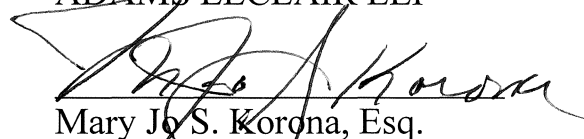
The foregoing issues were presented in briefs filed with the Appellate Division-Fourth Department as well as post oral argument submissions that have been uploaded to the Court's Portal.

CONCLUSION

In this matter, the Appellate Division's Order creates constitutional questions about the notice that is due to a person with an interest in property by virtue of her status as the surviving spouse of the sole property owner who passed away before notices were mailed where the enforcing municipality possessed actual knowledge of the circumstances and yet proceeded to an auction sale of the property without providing notice to the widow pursuant to RPTL 1125. Appellant requests an order that the jurisdictional predicate for appeal as a matter of right pursuant to CPLR § 5601 (b)(1) has been satisfied.

Respectfully submitted,

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STATE OF NEW YORK)
)
COUNTY OF MONROE)

ss.:

**AFFIDAVIT OF
PERSONAL SERVICE**

I, Donald P. Bloom of Rochester, New York, employed by PDQ Delivery, being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at the address shown above.

On June 25, 2021

deponent served the within: **APPELLANT'S JURISDICTIONAL RESPONSE**

Upon:


JASON S. DiPONZIO, ESQ.
950 Reynolds Arcade
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the attorney(s) in this action by delivering **one (1)** true copy thereof to said individual personally. Deponent knew the person so served to be the person mentioned and described in said papers as the Attorney(s) herein.

Sworn to before me on June 25, 2021



Carol A. Cross
Notary Public in the State of New York
Qualified in Monroe County
Registration No. 01BR6133534
My Commission Expires July 7, 2022



Job #: 510141