

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1361.1

CA 13-00041

PRESENT: SMITH, J.P., FAHEY, LINDLEY, SCONIERS, AND WHALEN, JJ.

FIVE STAR BANK, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

MARK LEWANDOWSKI, DEFENDANT-APPELLANT,
ET AL., DEFENDANTS.

WESTERN NEW YORK LAW CENTER, BUFFALO (KEISHA A. WILLIAMS OF COUNSEL),
FOR DEFENDANT-APPELLANT.

WOODS OVIATT GILMAN LLP, ROCHESTER (F. MICHAEL OSTRANDER OF COUNSEL),
FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (John M. Curran, J.), entered April 13, 2012. The order denied the application of defendant Mark Lewandowski for a residential foreclosure settlement conference and directed that plaintiff may proceed with this foreclosure action.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: Defendant Mark Lewandowski appeals from an order that denied his application for a residential foreclosure settlement conference pursuant to CPLR 3408 and allowed plaintiff to proceed with this foreclosure action. It is undisputed, however, that the mortgage has now been foreclosed and the property has since been sold to a third-party buyer. Thus, as a result of the sale, this appeal has been rendered moot inasmuch as no purpose would be served by a settlement conference at this time (*see generally Homeowners Assn. of Victoria Woods, III v Incarnato*, 4 AD3d 814, 815).

Entered: February 14, 2014

Frances E. Cafarell
Clerk of the Court