

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

1201

CA 17-01133

PRESENT: WHALEN, P.J., SMITH, CENTRA, NEMOYER, AND CURRAN, JJ.

PATRICK LORETO, IN THE RIGHT OF AND ON BEHALF
OF ENCORE PROPERTIES OF ROCHESTER, LLC, AND
RICCARDO DURSI, IN THE RIGHT OF AND ON BEHALF
OF ENCORE PROPERTIES OF ROCHESTER, LLC,
PLAINTIFFS-APPELLANTS,

V

ORDER

WELLS FARGO BANK, N.A., AS TRUSTEE FOR THE
REGISTERED HOLDERS OF CREDIT SUISSE FIRST BOSTON
MORTGAGE SECURITIES CORP., COMMERCIAL MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2007-C5,
TIMOTHY FOSTER, AS RECEIVER, KENNETH P. RAY, JR.,
AS EXECUTOR OF THE ESTATE OF KENNETH P. RAY,
DECEASED, DEFENDANTS-RESPONDENTS,
ET AL., DEFENDANTS.
(APPEAL NO. 2.)

JOSEPH A. TADDEO, JR., ROCHESTER, FOR PLAINTIFF-APPELLANT PATRICK
LORETO, IN THE RIGHT OF AND ON BEHALF OF ENCORE PROPERTIES OF
ROCHESTER, LLC.

FELT EVANS, LLP, CLINTON (JAY G. WILLIAMS, III, OF COUNSEL), FOR
DEFENDANT-RESPONDENT KENNETH P. RAY, JR., AS EXECUTOR OF THE ESTATE OF
KENNETH P. RAY, DECEASED.

BOND, SCHOENECK & KING, PLLC, ROCHESTER (GREGORY J. MCDONALD OF
COUNSEL), FOR DEFENDANT-RESPONDENT TIMOTHY FOSTER, AS RECEIVER.

RIKER DANZIG SCHERER HYLAND & PERRETTI LLP, MORRISTOWN, NEW JERSEY
(MICHAEL R. O'DONNELL OF COUNSEL), FOR DEFENDANT-RESPONDENT WELLS
FARGO BANK, N.A., AS TRUSTEE FOR THE REGISTERED HOLDERS OF CREDIT
SUISSE FIRST BOSTON MORTGAGE SECURITIES CORP., COMMERCIAL MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2007-C5.

Appeal from an order of the Supreme Court, Monroe County (Matthew
A. Rosenbaum, J.), entered April 11, 2017. The order denied the
motion of plaintiff Patrick Loreto, in the right of and on behalf of
Encore Properties of Rochester, LLC, for leave to renew his motion for
a default judgment against defendant Encore Property Management of
Western New York, LLC.

It is hereby ORDERED that the order so appealed from is
unanimously affirmed without costs for reasons stated in the decision

at Supreme Court.

Entered: November 9, 2018

Mark W. Bennett
Clerk of the Court