

SHORT AND SWEET

If you return fish given to you after its expiration date, and the grocer then alters the date and returns it to you, you have not lost the right to return it if the fish is tainted.

We alleged the case was expired: the court altered dates in a back room and returned a case that was tainted as Lyceum attorney was not served motion papers.

Once more unto the breach, dear friends

The evidence points to a lack of due process tainted foreclosure.

The Brooklyn Lyceum foreclosure was challenged as abandoned.

To rule against us, the lower court improperly looked outside the filed docket.

The Appellate Court, rather than rejecting the lower court excursion outside the filed docket, rubber stamped that act and made, and refused to correct, a finding of fact that October 17 came after October 26.

Court/Plaintiff Catch-22

The rubber stamping laid bare stark factual realities. So the court must:

- A. Rule on the docket Plaintiff made available to the court up to and including its initial motion rendering the case, precisely as movant argued, abandoned.
- B. Rule on the docket made available to the court by the Plaintiff three years after the motion, which, if communications between attorneys are part of record whether or not on the docket, leads to an impermissible Decision on No Notice.
- C. Preserve Defendant Lyceum's rights abridged by the court by retroactively inserting attorney communications on the docket.

If A, there is no case, as it was abandoned making the foreclosure sale illegal.

If B, the first decision, the motion for such not being served on the known to the Plaintiff (but withheld from the court by the Plaintiff) Lyceum attorney, was a Decision On No Notice and the Appellate Court should vacate and remand case back to lower court.

If C, the court retroactively altered the docket to the benefit of the Plaintiff to the deprivation of the Defendant Lyceum's notice, a substantial right, requiring the same as B, vacate and remand back to lower court.

Whether A, B or C, the Lyceum needs sunlight on a court that would refuse to correct the finding Oct. 17 came after Oct. 26 after opining at oral argument "the 2nd Department has an excellent reputation" and "we will get to the bottom of this"¹²³.

¹ Link to oral argument video snippet

² Link to excerpts

³ Link to assemblage across years of oral arguments.