

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NEW YORK

In the matter of the application of

THE BANK OF NEW YORK MELLON (as Trustee  
 under various Pooling and Servicing Agreements and  
 Indenture Trustee under various Indentures), *et al.*

Petitioners,

for an order, pursuant to C.P.L.R. § 7701, seeking  
 judicial instructions and approval of a proposed  
 settlement.

Index No. 651786/2011

Assigned to: Kapnick, J.  
 IAS Part 39

**NOTICE OF MOTION**

Mot. Seq. No. 042

Oral Argument Requested

PLEASE TAKE NOTICE that, upon the Affirmation of John G. Moon, dated October 29, 2013, and the exhibits annexed thereto, Memorandum of Law, the pleadings in this action, and all proceedings heretofore had herein, respondents Triaxx Prime CDO 2006-1, Ltd., Triaxx Prime CDO 2006-2, Ltd., and Triaxx Prime CDO 2007-1, Ltd. (together, “Triaxx”) will move this Court on November 14, 2013 at 9:30 a.m., or as soon thereafter as counsel may be heard, at the Motion Support Office Courtroom in Room 130 of the Courthouse of the Supreme Court of the State of New York, 60 Centre Street, New York, New York 10007, for a Judgment During Trial Pursuant to CPLR 4401 denying Petitioners’ Application, dismissing this Action without prejudice, and for such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR 2214(b), answering affidavits, if any, are required to be served upon the undersigned at least seven (7) days before the return date of this motion.

Dated: October 29, 2013

MILLER & WRUBEL P.C.

By: s/ John G. Moon

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