

U.S. Bank Trust N.A. v Levkovich
2026 NY Slip Op 31067(U)
March 13, 2026
Supreme Court, Nassau County
Docket Number: Index No. 610040/2023
Judge: Maureen McHugh Heitner
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Short Form Order

NEW YORK SUPREME COURT - NASSAU COUNTY

Present: **Hon. Maureen McHugh Heitner**
Judge of the Court of Claims, AJSC

PART 33

U.S. BANK TRUST NATIONAL ASSOCIATION,
NOT IN ITS INDIVIDUAL CAPACITY, BUT
SOLELY AS TRUSTEE OF THE TRUMAN 2021
SC9 TITLE TRUST,

Index No.: 610040/2023

Motion
Date: January 26, 2026

Plaintiff,

Mot. Seq.
Numbers: 2, 3, 4

- against -

ALEXANDER LEVKOVICH, et. al.,

Defendants.

Upon the following papers numbered as below read on this motion by plaintiff for summary judgment, an Order of Reference, and related relief as against defendants Alexander Levkovich, Eti Levkovich, and Jeffrey S. Schecter & Associates, P.C. (Mot. Seq. #2); as well as the cross motion by self-represented defendant Alexander Levkovich, to dismiss the action due to plaintiff's failure to comply with notice requirements (Mot. Seq. #3); as well as on the cross motion by defendant Vladimir Shvets to dismiss the action pursuant to CPLR §3211(a)(8) and CPLR §3215(c), or for leave to file a late answer pursuant to CPLR §3012(d) and §2004 (Mot. Seq. No. 4):

NYSCEF Documents

Motion Seq. # 2

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Motion Seq. # 4

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The plaintiff initiated this action to foreclose a mortgage based upon an alleged default in payment.

It is well established that the proponent of a motion for summary judgment must demonstrate entitlement to judgment as a matter of law, tendering sufficient evidence to eliminate any material issues of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320 [1986]; *see also Zuckerman v City of New York*, 49 NY2d 557 [1980]). The evidence will be construed in a light most favorable to the one moved against (*see Weiss v Garfield*, 21 AD2d 156 [3d Dept 1964]). Once the movant has made a *prima facie* showing of entitlement to judgment, the burden shifts to the party opposing the motion to produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact which require a trial of the action (*see Zuckerman*, 49 NY2d 557; *see also Alvarez*, 68 NY2d 320). Conclusory allegations, bold assertions, or speculation are simply insufficient to successfully oppose a motion for summary judgment (*see Zuckerman*, 49 NY2d 557). A shadowy semblance of an issue is not enough to defeat a motion for summary judgment (*see LoBreglio v Marks*, 105 AD2d 621 [1st Dept 1984]).

“A plaintiff moving for summary judgment in an action to foreclose a mortgage establishes its *prima facie* case through the production of the mortgage, the unpaid note, and evidence of default” (*Bank of Am., N.A. v Nicolosi*, 200 AD3d 1018 [2d Dept 2021]). “A plaintiff has standing to maintain a mortgage foreclosure action where it is the holder or assignee of the underlying note at the time the action is commenced” (*US Bank N.A. v Cusati*, 185 AD3d 870 [2d Dept 2020], citing *Aurora Loan Servs., LLC v Taylor*, 25 NY3d 355 [2015]). “The plaintiff has the burden of establishing, by proof in admissible form, its *prima facie* entitlement to judgment as a matter of law” (*U.S. Bank N.A. v Tesoriero*, 204 AD3d 1066 [2d Dept 2022], quoting *Bank of N.Y. Mellon v DeLoney*, 197 AD3d 548 [2d Dept 2021]).

In support of its motion, Plaintiff submits, *inter alia*, the subject note and mortgage as well as the affidavit of Elizabeth Corral, Default Fulfillment Manager for Plaintiff’s loan servicer. In her affidavit, Ms. Corral avers, based upon her personal knowledge and review of Plaintiff’s business records, including those incorporated from prior entities, that the Defendants defaulted in payment on the subject loan and that Plaintiff satisfied all conditions precedent prior to commencing the instant action. Plaintiff’s submissions here are sufficient to meet its burden on this motion (*see Wells Fargo Bank, N.A. v Harrison*, 188 AD3d 1298 [2d Dept 2020], citing *Capital One, N.A. v McComb*, 180 AD3d 743 [2d Dept 2020]; *see also Nicolosi*, 200 AD3d 1018).

In opposition, and in support of their cross-motions, defendant Levkovich and defendant Shvets contend that Plaintiff failed to prove compliance with notice requirements. Both moving Defendants assert that notices were sent to addresses where they did not reside. Mr. Levkovich claims that he advised Plaintiff’s prior loan servicer of a change of his address for the purpose of notices. Mr. Shvets provides a driver’s license and energy bill as proof that

he was served at the wrong address. The moving Defendants additionally allege that the allonge included with the subject note was “firmly affixed” and argue that Plaintiff failed to demonstrate the authority for its servicer to act on its behalf.

Here, the moving Defendants failed to meet their respective burdens or raise an issue of fact as to Plaintiff’s motion, as the only evidence offered in support of Defendants’ claims regarding defective service and mailing of notices are their own self-serving, conclusory statements (*see Zuckerman*, 49 NY2d 557). Specifically, defendant Levkovich’s claims that he advised Plaintiff of a changed address for receiving notices are entirely unsupported, and the mere fact that service was attempted at multiple addresses does not raise an issue of fact as to Plaintiff’s compliance with RPAPL §1304 or with the terms of the subject mortgage (*see Bank of N.Y. Mellon v Barkan*, 190 AD3d 676 [2d Dept 2021], citing *JPMorgan Chase Bank, N.A. v Skluth*, 177 AD3d 592 [2d Dept 2019]).

Similarly, the energy bill offered by Mr. Shvets is dated November 2025, years after the notices at issue were sent and service of the Summons and Complaint was completed. While issued prior to service in this action, the driver’s license provided by Mr. Shvets is likewise insufficient to rebut the presumption of proper service created by the process server’s affidavit (*see HSBC Bank USA, N.A. v Dindyal Singh*, 2024 NY Misc LEXIS 21531 [Sup Ct, Queens County 2024], citing *HSBC Bank USA, N.A. v Rahmanan*, 194 AD3d 792 [2d Dept 2021]).

Further, contrary to the Defendants’ contentions, Plaintiff sufficiently demonstrated the authority of its servicers to act on its behalf, and that the allonge challenged by Defendants was firmly affixed to the note (*see Wells Fargo Bank, N.A. v Daniel*, 2025 NY Slip Op 32736 [Sup Ct, Kings County 2025]; *see also Deutsche Bank Nat’l Trust Co. v Sause*, 2024 NY Misc. LEXIS 26351 [Sup Ct, Richmond County 2024]).

Finally, defendant Vladimir Shvets cross-moves for the alternative relief of leave to file a late Answer pursuant to CPLR §§3012(d) and 2004. Pursuant to CPLR §3012(d), “Upon the application of a party, the court may extend the time to appear or plead, or compel the acceptance of a pleading untimely served, upon such terms as may be just and upon a showing of reasonable excuse for delay or default.” It is well-established law that: “[a] defendant who has failed to timely appear or answer the complaint must provide a reasonable excuse for the default and demonstrate a meritorious defense to the action, when . . . moving . . . to compel the acceptance of an untimely answer.” (*Lipp v. Port Authority of New York and New Jersey*, 34 AD3d 649 [2d Dept 2006]). In this case, defendant Shvets has presented a reasonable excuse for the default via his submission of an Affidavit of Merits and a Proposed Answer, yet he has not presented a reasonable excuse for the default. As such, this branch of defendant Shvets’ cross motion must be denied. Accordingly, it is

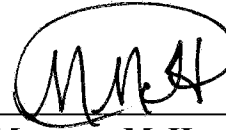
ORDERED that Plaintiff’s motion for an Order of Reference, summary judgment, and related relief (Mot. Seq. No. 2) is granted; and it is further

ORDERED that defendant Levkovich's cross motion (Mot. Seq. No. 3) is denied; and it is further

ORDERED that defendant Shvets' cross motion (Seq. No. 4) is denied.

Settle Order.

Dated: March 13, 2026



Maureen McHugh Heitner
Judge of the Court of Claims, AJSC

ENTERED

Mar 25 2026

NASSAU COUNTY
COUNTY CLERK'S OFFICE