

Supreme Court of the State of New York
Appellate Division, First Judicial Department

Kennedy, J.P., Scarpulla, Mendez, Rodriguez, Rosado, JJ.

6677 HSBC BANK USA, etc.,
 Plaintiff-Appellant,

Index No. 35472/15
Case No. 2024-07071

-against-

CHERYL KEELING et al.,
Defendants-Respondents.

McCabe, Weisberg & Conway, LLC, Port Chester (Robert Yusko of counsel), for appellant.

Cheryl Keeling, respondent pro se.

Order, Supreme Court, Bronx County (Doris M. Gonzalez, J.), entered August 15, 2023, which granted defendant Cheryl Keeling’s motion “to provide proof of service of the Motion to Foreclose and Sell Plaintiff’s property” and sua sponte dismissed the complaint based on lack of personal jurisdiction, unanimously reversed, on the law, without costs, motion denied, and the complaint reinstated.

A process server’s affidavit of service constitutes prima facie evidence of proper service (*Deutsche Bank Natl. Tr. Co. v Quinones*, 114 AD3d 719 [2d Dept 2014], *lv dismissed* 38 NY3d 1164 [2022]). Plaintiff made a prima facie showing of proper service by submitting the process servers affidavits of service with its motions and in opposition to defendant’s motion (*see Wachovia Bank, N.A. v Greenberg*, 138 AD3d 984, 985 [2d Dept 2016]). Although a defendant’s sworn denial of receipt of service generally rebuts the presumption of proper service established by a process server’s affidavit and necessitates an evidentiary hearing, no hearing is required where the defendant fails to

swear to specific facts to rebut the statements in the process server's affidavits (*id*).
Defendant Keeling is not entitled to a traverse hearing because she submitted an
unsworn affidavit which failed to raise an issue of fact.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: May 21, 2026

A handwritten signature in black ink, appearing to read "Susanna M. Rojas". The signature is fluid and cursive, with the first name "Susanna" and the last name "Rojas" clearly distinguishable.

Susanna Molina Rojas
Clerk of the Court