JPMorgan Chase Bank, N.A. v Greengrass
2025 NY Slip Op 33186(U)
August 22, 2025
Supreme Court, New York County
Docket Number: Index No. 656244/2023
Judge: Lyle E. Frank
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. LYLE E. FRANK** **PART** **11M**

Justice

----------X

JPMorgan Chase Bank, N.A.

Plaintiff,

- v -

Greengrass, Barney

Defendant.

----------X

INDEX NO. 656244/2023

MOTION DATE 04/18/2025

MOTION SEQ. NO. 002

AMENDED DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 26, 27, 28, 29, 30, 31, 32, 33, 34, 37, 38, 39, 40, 41, 42, 43, 45

were read on this motion to/for JUDGMENT - SUMMARY.

Upon the foregoing documents, plaintiff's motion is denied.

Background:

This is a breach of contract case in which Plaintiff, JPMorgan Chase Bank, N.A., brought an action against Defendant, Barney Greengrass. Greengrass was an employee of JPMorgan and received a loan of $950,502.00 as part of his hiring agreement. This loan was accompanied by a promissory note, whose terms stipulated a seven-year payment plan and a mandatory payment of the full balance within thirty days of Greengrass's departure from the company. In 2015, Greengrass had underpaid on multiple loan installments and as a result agreed to a payment plan with JPMorgan. Greengrass resigned in 2017 but still owed $419,420.67, which has since grown to $504,497.82 with interest as of April 18, 2025. The promissory note contained an acceleration clause that caused the entire outstanding balance including interest to come due within thirty days of resignation. It also contained a provision whereby Greengrass agreed to reimburse Plaintiff for reasonable attorneys' fees connected with an action for collection under the note.

In 2018, Greengrass initiated a FINRA arbitration proceeding against a subsidiary of Plaintiff, J.P. Morgan Securities, LLC ("JPMS"), for unjust enrichment. In their answer, JPMS interposed a counterclaim alleging breach of contract under the promissory note that forms the subject of this matter. The arbitration panel issued an award in favor of JPMS in that proceeding, which was subsequently vacated in part by Justice Andrew Borrok on the grounds that Plaintiff, and not JPMS, was the holder of the note in question. Justice Borrok noted that nothing in that decision should prevent the holder of the note from seeking to enforce the terms of the note.

On December 13, 2023, Plaintiff brought a motion for summary judgment in lieu of complaint due to the Defendant's failure to pay the loan under the terms of the note. In its Decision & Order from May 29, 2024, this Court denied Plaintiff's motion, determining that Plaintiff failed to provide "an affidavit of a person who is the custodian of the records submitted in support of the motion." As such, this Court found that Plaintiff had failed to establish their prima facie entitlement to the relief sought. The Order deemed the papers in support and in opposition the pleadings in this action. On April 18, 2025, Plaintiff moved for summary judgment once more, this time under CPLR § 3212, furnishing an Affidavit from Jared Hinko, the Vice President of Business Management for the J.P. Morgan Advisors line of business.

Standard Of Review:

Under CPLR § 3212, a party may move for summary judgment and the motion "shall be granted if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of any party." CPLR § 3212(b). Once the movant makes a showing of a prima facie entitlement to judgment as a matter of law, the burden then shifts to the opponent to "produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact which require a

trial of the action." *Stonehill Capital Mgt. LLC v. Bank of the W.*, 28 N.Y.3d 439, 448 [2016]. The facts must be viewed in the light most favorable to the non-moving party, but conclusory statements are insufficient to defeat summary judgment. *Id.*

Discussion

A prior version of this Order neglected to address the statute of limitations issue raised by Defendant in opposition to this motion. Upon considering the matter, the Court finds, for the reasons that follow, that there is ambiguity as to whether the action is time-barred. Therefore, summary judgment at this stage would be inappropriate.

The Action Might Be Time-Barred under Cannell

As a preliminary matter, actions sounding in breach of contract have a six-year statute of limitations. CPLR § 213(2). When a promissory note is for installments, as is the case here, each missed installment accrues a separate cause of action. *Cannell v. Grail Partners, LLC*, 180 A.D.3d 457, 458 [1st Dept. 2020]. Here, by the terms of the promissory note, the last installment was due (and was not paid on) February 26, 2017, which places this December 2023 action beyond the six-year mark. Plaintiff argues that the statute of limitations did not begin to run until the acceleration clause in the note was triggered, which was December 14, 2017. But *Cannell* makes it clear that "acceleration does not reset the limitations period for the earlier missed payments." *Id.*, at 459. While an acceleration clause may trigger a statute of limitations for future payments that have now become due, it cannot alter the statute of limitations analysis for payments that were missed *before* the acceleration clause was triggered. Therefore, under *Cannell*, the current action may be time-barred.

Unclear Whether the 2018 Email Restarted the Statute of Limitations Clock Under General Obligations Law § 17-101

Plaintiff has argued that an email sent by Defendant in November of 2018 reset the statute of limitations to recover on the promissory note. That email starts with a recitation of one of Defendant's grievances with Plaintiff and continues:

> the amount of business that was stolen from me along with future business that it would have generated, would more than given me the ability to pay back the promissory note in full. Instead I am insolvent with a negative net worth unable to pay the note back. I respectfully ask that JP Morgan forgive the balance due on this note otherwise I am prepared to settle this matter in arbitration.

Under General Obligations Law § 17-101, "[a]n acknowledgement or promise contained in a writing signed by the party to be charged thereby is the only competent evidence of a new or continuing contract" that can restart the statute of limitations for a breach of contract claim. Because Plaintiff's claim would otherwise be barred by the statute of limitations, the issue becomes whether the 2018 email satisfies the GOL requirements.

An email sent by a party or their agent can satisfy the requirement that the acknowledgement be in writing and signed by the party to be charged. *Nelux Holdings Intl., N.V. v. Dweck*, 160 A.D.3d 520, 521 [1st Dept. 2018]; *see also Toobian v. Toobian*, 209 A.D.3d 907, 909 [1st Dept. 2022]. To constitute an acknowledgement, the writing in question must "recognize an existing debt and must contain nothing inconsistent with an intention on the debtor to pay it." *Lew Morris Demolition Co. v. Board of Education*, 40 N.Y.2d 516, 521 [1976]. It is unclear from the wording of the email whether a reference to settlement in arbitration and an inability to pay is inconsistent with an intention to pay. When it is unclear or ambiguous whether a writing satisfies the requirements of GOL § 17-101, summary judgment is inappropriate because the application of the statute of limitations must be determined by the factfinder. *Zarintash v. Kopple*, 234 A.D.2d 105, 106 [1st Dept. 1996]; *see also Hawk Mtn. LLC v. Ram*

Capital Group LLC, 192 A.D.3d 447, 448 [1st Dept. 2021]. For this reason, granting summary judgment at this time would be improper. Accordingly, it is hereby

ADJUDGED that the motion for summary judgment is denied; and it is further

ORDERED that the decretal clauses of this Court's Decision and Order dated July 8, 2025, are hereby vacated.

20250822152823LFRANK6D98B37E219E4DD9AE94B4C585F52336

8/22/2025
DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:		**CASE DISPOSED**		[X]	**NON-FINAL DISPOSITION**		
		GRANTED	[X] **DENIED**		**GRANTED IN PART**		**OTHER**
APPLICATION:		**SETTLE ORDER**			**SUBMIT ORDER**		
CHECK IF APPROPRIATE:		**INCLUDES TRANSFER/REASSIGN**			**FIDUCIARY APPOINTMENT**		**REFERENCE**