

U.S. Bank Trust N.A. v Hollender

2025 NY Slip Op 34234(U)

October 27, 2025

Supreme Court, Kings County

Docket Number: Index No. 516807/2023

Judge: Menachem M. Mirocznik

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At IAS Part FRP5 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse located at 360 Adams Street, Brooklyn, NY 11201, on the 27th of October 2025

PRESENT: HON. MENACHEM M. MIROCZNIK
JUSTICE OF THE SUPREME COURT

U.S. BANKTRUSTNATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE OF LSF9 MASTER PARTICIPATION TRUST

Plaintiff,

-against-

FRIEDA HOLLENDER; NATHAN STEINMETZ; NS194, LLC; NEW YORK CITY ENVIRONMENTAL CONTROL BOARD; NEW YORK CITY PARKING VIOLATIONS BUREAU LISA LEVINE MICHAEL ALAN SHAPIRO, AS HEIR TO THE ESTATE OF BERNARD L. SHAPIRO RANDI M. CHASE, AS HEIR TO THE ESTATE OF BERNARD L. SHAPIRO any and all

persons unknown to plaintiff, claiming, or who may claim to have an interest in, or generally or specific lien upon the real property described in this action; such unknown persons being herein generally described and intended to be included in the following designation, namely: the wife, widow, husband, widower, heirs-at law, next of kin, descendants, executors, administrators, devisees, legatees, creditors, trustees, committees, lienors, and assignees of BERNARD L. SHAPIRO, deceased, any and all persons deriving interest in or lien upon, or title to said real property by, through or under them and their respective wives, widows, husbands, widowers, heirs at law, next of kin, descendants, executors, administrators, devisees, legatees, creditors, trustees, committees, lienors, and assignees, all of whom and whose names, except as stated, are unknown to plaintiff; "JOHN DOE#1" through "JOHN DOE#12," the last twelve names being fictitious and unknown to plaintiff, the persons or parties intended being the tenants, occupants, persons or corporations, if any,

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**Interim Order
(Motion Seq. 3)**

having or claiming an interest in or lien upon the premises, described in the complaint,

Defendants.

Papers	Numbered
Notice of Motion	NYSCEF Doc. 84-108

Upon the foregoing papers, the motion is determined in accordance with this Interim Order as follows:

This action was commenced on June 8, 2023 seeking to foreclose a mortgage encumbering the property known as 254 Skillman Street, Brooklyn, NY 11205 (the "property"). Plaintiff filed a certificate of merit as required by CPLR 3012-B that specifically attested that this action involves a home loan within the meaning of RPAPL 1304 and that defendants Frieda Hollender and Nathan Steinmetz occupy the subject property. Plaintiff further filed a specialized request for judicial intervention that also provided that this action involves one to four family owner occupied property. Notwithstanding these representations, no settlement conferences were conducted as required by CPLR 3408.

The instant motion for default judgment and order of reference was filed on May 22, 2025. Plaintiff alleges that Defendants defaulted in appearing or answering as of the end of August 2023. It is clear to the Court that more than one year has elapsed since the defendant defaulted in appearing or answering the complaint and plaintiff offers no excuse or explanation for its delay in taking proceedings for entry of a default judgment against defendants. See *Noteworthy Foreclosure, LLC v Rodney-Ross*, 220 AD3d 676 [2d Dept 2023] ["the Supreme Court properly, sua sponte, directed dismissal of the complaint insofar as asserted against the defendants as abandoned pursuant to CPLR 3215(c)"]; *Chase Home Fin., LLC v Dasuja*, 204 AD3d 638, 640 [2d Dept 2022] ["the Supreme Court providently exercised its discretion ... in, sua sponte, directing dismissal of the complaint as abandoned pursuant to CPLR 3215(c)"].

While by the express terms of CPLR 3215(c), this Court has the duty to dismiss the action on "its own initiative," given that a foreclosure action is an action in equity and it appears that CPLR 3408 conferences were not yet held, the Court determines that it would be prudent and more importantly the duty of this Court, as required by CPLR 3408(a), for an initial settlement conference to be held to see if this matter can be settled prior to determining the instant motion. CPLR 3408(m) provides that "[a]ny motions submitted by the plaintiff or defendant shall be held in abeyance while the settlement conference process is ongoing, except for motions concerning compliance with this rule and its implementing rules."

Accordingly, it is hereby

ORDERED, that an initial settlement conference shall be held before this Court on January 7, 2026 as required by CPLR 3408; and it is further

ORDERED, that plaintiff motion for default judgment shall be held in abeyance until the conclusion of settlement conferences; and it is further

ORDERED, that plaintiff shall serve defendants with a copy of this order within 20 days of entry of this order.

This constitutes the interim order of the Court.

ENTER:



Hon. Menachem M. Mirocznik, J.S.C.

KINGS COUNTY CLERK
FILED
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