

Santander Bank, N.A. v Red N Blue Clothing Inc.

2026 NY Slip Op 30035(U)

January 6, 2026

Supreme Court, New York County

Docket Number: Index No. 154131/2023

Judge: Ashlee Crawford

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ASHLEE CRAWFORD PART 38
Justice
INDEX NO. 154131/2023
SANTANDER BANK, N.A., MOTION DATE 07/30/2024
Plaintiff, MOTION SEQ. NO. 001

- v -

RED N BLUE CLOTHING INC., JAMES JOSEPH and
MARILYN MAHLER,

DECISION + ORDER ON
MOTION

Defendants.

The following e-filed documents, listed by NYSCEF document number (Motion 001) 13, 14, 15, 16, 17,
18, 19, 20, 21, 22, 23, 24, 25, 26, 27

were read on this motion to/for AMEND CAPTION/PLEADINGS

In this action to enforce promissory notes and personal guarantees, plaintiff moves for an
order pursuant to CPLR 1018 substituting non-party Gulf Coast Bank and Trust Company ("Gulf
Coast") as plaintiff and amending the caption accordingly; and pursuant to CPLR § 3215
granting Gulf Coast a default judgment against all defendants. The motion is unopposed.

Background

Plaintiff alleges that, in 2016, defendant Red N Blue Clothing, Inc. ("RNB") executed a
promissory note in favor of plaintiff in the principal sum of \$100,000.00, in connection with
plaintiff's extension of a line of credit to RNB ("Line of Credit Note") (Compl. ¶ 5 [Complaint];
Line of Credit Note [NYSCEF Doc. 2]). In 2017, RNB executed a second promissory note in
favor of plaintiff in the principal sum of \$50,000.00, related to a term loan plaintiff made to RNB
("Term Note" and, together, the "Notes") (Compl. ¶ 14; Term Note [NYSCEF Doc. 4]).

1 This action was transferred to the undersigned effective February 3, 2025.

Defendants Joseph and Mahler guaranteed both notes (Line of Credit Note Guaranty [NYSCEF Doc. 5]; Term Note Guaranty [NYSCEF Doc. 6]). RNB allegedly defaulted under the Notes in 2018, and Joseph and Mahler are in default under the guarantees (Compl. ¶¶ 10, 25, 26, 61-70).

Plaintiff seeks to recover \$100,000.00 in unpaid principal on the Line of Credit Note and \$38,086.24 in unpaid principal on the Term Note, with interest, late charges, and attorneys' fees (Compl. ¶¶ 28-29).

Substitution of Plaintiff

CPLR 1018 provides that “[u]pon any transfer of interest, the action may be continued by or against the original parties unless the court directs the person to whom the interest is transferred to be substituted or joined in the action.” “A motion for substitution can be made by the successors or representatives of a party, so long as the motion is made within a reasonable time” (Bartel v Maersk Line, Ltd., 215 AD3d 533, 542 [1st Dept 2023]; CPLR 1021). Furthermore, “[l]eave to amend the pleadings should be freely given absent prejudice to the opposing party and where the proposed claims are not palpably insufficient or devoid of merit” (Leyton v Siegel, 212 AD3d 521 [1st Dept 2023][internal citations omitted]).

Plaintiff has established that it sold and assigned to proposed plaintiff, Gulf Coast, all its right, title, and interest in the Notes and their related line of credit and term loan, pursuant to a Purchase and Sale Agreement dated December 5, 2023 and a Bill of Sale and Assignment of Assets dated December 13, 2023 (Daste Affirm. ¶¶ 14-17 [NYSCEF Doc. 14]; Bill of Sale and Asset Schedule [NYSCEF Doc. 15]; Line of Credit Note and Allonge [NYSCEF Doc. 16]; Loan Note and Allonge [NYSCEF Doc. 17]; see Aurora Loan Servs., LLC v Taylor, 25 NY3d 355, 359 [2015][allonge indorsing note used as proof of ownership of note]; U.S. Bank N.A. v Mave Hotel Inv'rs LLC, 231 AD3d 607, 607-608 [1st Dept 2024][notes and allonges attached were

sufficient to establish plaintiff's standing]). As such, plaintiff Santander's request to substitute Gulf Coast as plaintiff is granted.

Default Judgment

CPLR § 3215 allows a plaintiff to seek a default judgment against a defendant who has failed to appear upon submission of the requisite proof as outlined in the statute. Plaintiff has moved for entry of a default within one year; demonstrated proof of service of the summons and complaint; established defendant's default in failing to timely answer or otherwise appear; and has submitted sufficient proof of the facts constituting plaintiff's claims (CPLR 3215[c], [f], [g]; see Bigio v Gooding, 213 AD3d 480 [1st Dept 2023]).

As to damages, plaintiff submits as proof the affirmation of Gulf Coast's division president and custodian of records, Joel Daste; the promissory notes and guarantees; default letters to defendants, dated May 24, 2018 and April 26, 2023; and an interest calculation spreadsheet created by plaintiff (Daste Affirm. [NYSCEF Doc. 14]; Line of Credit Note [NYSCEF Doc. 2]; Line of Credit Note Guaranty [NYSCEF Doc. 5]; Term Note [NYSCEF Doc. 4]; Term Note Guaranty [NYSCEF Doc. 6]; 5/24/2018 Default Letter [NYSCEF Doc. 3]; 4/26/2023 Default Letter [NYSCEF Doc. 7]; Interest Calculation Spreadsheet [NYSCEF Doc. 21]).

Under the Line of Credit Note and related guarantee, plaintiff seeks payment of \$100,000.00 in outstanding principle; plus unpaid interest at the Line of Credit Note Interest Rate and unpaid late charges through the entry of judgment; and reasonable attorneys' fees, other charges, and costs and expenses (Compl. ¶ 28). The Line of Credit Note Interest Rate is 8.00% over Santander's prime interest rate plus an additional 0.5% per annum (see Line of Credit Note [NYSCEF Doc. 2]; Compl. ¶ 9). Plaintiff calculates the accrued late charges on the \$100,000.00

principal to be \$7,566.07 as of April 24, 2023; and the accrued interest on the principal to be \$87,691.90 (\$66,708.34 as of April 24, 2023 and \$20,983.56 from April 25, 2023 through July 29, 2024), for a total sum due under the Line of Credit Note of \$195,257.97 (see Daste Affirm. ¶¶ 42-44 [NYSCEF Doc. 14]; Interest Calculation Spreadsheet [NYSCEF Doc. 21]).

Under the Term Note and related guarantee, plaintiff seeks payment of \$38,086.24 in outstanding principle; plus unpaid interest at an annual rate of 6.29% and unpaid late charges through the entry of judgment; and attorneys' fees, other charges, and costs and expenses (Compl. ¶ 29). The Term Note provides for a fixed interest rate of 5.79% per annum plus an additional 0.5% when there are three consecutive monthly occurrences of insufficient funds to pay obligations due (Term Note [NYSCEF Doc. 4]; Compl. ¶ 18). Plaintiff calculates the accrued late charges on the \$38,086.24 principal to be \$2,206.18 as of April 24, 2023; and the accrued interest on the principal to be \$14,450.89 (\$11,471.13 as of April 24, 2023 and \$2,979.76 from April 25, 2023 through July 29, 2024) for a total sum due under the Term Note of \$54,743.31 (see Daste Affirm. ¶¶ 45-46 [NYSCEF Doc. 14]; Interest Calculation Spreadsheet [NYSCEF Doc. 21])

Plaintiff has agreed to waive any additional late charges that have accrued since April 25, 2023 under both Notes, as well as attorneys' fees (Daste Affirm. ¶ 47).

Accordingly, it is hereby

ORDERED that plaintiff's motion for substitution and default judgment is GRANTED without opposition; and it is further

ORDERED that Gulf Coast Bank and Trust Company shall be substituted in this action as plaintiff in the place and stead of Santander Bank, N.A., and all papers, pleadings, and

proceedings shall be amended to reflect the same without prejudice to the proceedings heretofore had herein; and it is further

ORDERED that the caption of this action be amended to read as follows:

-----x	
GULF COAST BANK AND TRUST COMPANY,	Index No.: 154131/2023
Plaintiff,	
-against-	
RED N BLUE CLOTHING INC., JAMES JOSEPH, and MARILYN MAHLER,	
Defendants.	

-----x
; and it is further,

ORDERED that the Clerk of the Court is directed to amend their records to reflect such change in the caption herein; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment in favor of plaintiff and against defendants Red N Blue Clothing Inc., James Joseph, and Marilyn Mahler, jointly and severally, for (1) the total sum of \$250,001.28 calculated as the outstanding principal of \$100,00.00 on the Line of Credit Note, together with \$87,691.90 in interest accrued as of July 29, 2024 and \$7,566.07 in late charges, plus the outstanding principal of \$38,086.24 on the Term Note, together with \$14,450.89 in interest accrued as of July 29, 2024 and \$2,206.18 in late charges; and (2) costs and disbursements to be taxed by the Clerk upon presentation of proper papers therefor; and it is further

ORDERED that plaintiff may enter supplemental judgment against defendants for interest accruing since July 30, 2024 with the amounts to be awarded in that supplemental judgment to be determined by motion on notice supported by appropriate documentation; and it is further

ORDERED that plaintiff shall serve a copy of this order with notice of entry upon all defendants within 10 days of this order; and it is further

ORDERED that plaintiff shall serve a copy of this order with notice of entry upon the Clerk of the Court and the Clerk of the General Clerk's Office, who shall enter judgment accordingly.

This constitutes the decision and order of the Court.

1/6/26
DATE

ASHLEE CRAWFORD, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE