

Patel v Ballard

2026 NY Slip Op 30300(U)

January 24, 2026

Supreme Court, New York County

Docket Number: Index No. 654918/2025

Judge: Andrea Masley

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SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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RAJIV PATEL, PASTIS LLC, and PALOMA 2360 LLC,

Plaintiffs,

- v -

CHARLES ANDREW BALLARD, CHARLES ANDREW
 BALLARD, and FIGTREE PARTNERS LLC,

Defendants.

INDEX NO. 654918/2025

MOTION DATE --

MOTION SEQ. NO. 001

**DECISION + ORDER ON
 MOTION**

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29

were read on this motion to/for SUMMARY JUDGMENT (BEFORE JOIND).

In motion sequence number 001 plaintiffs move pursuant to CPLR 3213 for an order

“(i) granting Plaintiffs’ motion for summary judgment in lieu of complaint against defendants Charles Andrew Ballard, III, in his individual capacity and in his capacity as co-trustee of the Ballard Family Trust, Figtree Partners, LLC, TrustCo 2025 LLC, and TrustCo 2025 LLC – Ballard Family, a registered series of TrustCo 2025 LLC (collectively, ‘Defendants’);

(ii) entering judgment in favor of Plaintiffs and against Defendants, jointly and severally, in the amount of \$12,656,017.53, together with continuing interest at 2 percent per month; [and]

(iii) severing and referring the calculation of the attorneys’ fees, costs of collection and expenses that Plaintiffs have incurred since June 6, 2025, to a special referee to hear and determine.” (NYSCEF Doc. No. 2, Notice of Motion.)

CPLR 3213 provides that “[w]hen an action is based upon an instrument for the payment of money only or upon any judgment, the plaintiff may serve with the summons a notice of motion for summary judgment and the supporting papers in lieu of a complaint.” A promissory note, like the one at issue here (NYSCEF 4), is the

quintessential instrument for the payment of money only. (See *Weissman v Sinorm Deli*, 88 NY2d 437, 444 [1996]; *Seaman-Andwell Corp. v Wright Machine Corp.*, 31 AD2d 136, 137 [1st Dept 1968].) There is no dispute that the note remains unpaid. (See NYSCEF 3, Patel Aff ¶ 11; *Fixy 33 LLC v Deutsch*, 237 AD3d 611, 612 [1st Dept 2025] [“[p]laintiff established its entitlement to summary judgment in lieu of complaint by submitting the promissory note signed by the defendant . . . and the affidavit of its member attesting defendant's failure to pay.”]) For the reasons stated on the record on January 23, 2026, and in the absence of opposition, the motion is granted.

Accordingly, it is

ORDERED that plaintiffs’ motion for summary judgment in lieu of complaint is granted, and the Clerk of the Court is directed to enter judgment in favor of plaintiffs Rajiv Patel, Pastis LLC, and Paloma 2360 LLC, and against defendants Charles Andrew Ballard, Charles Andrew Ballard, and Figtree Partners LLC, in the sum of \$12,656,017.53, together with interest at 2% per month from June 6, 2025 to the present and thereafter at the statutory rate, with costs and disbursements as taxed by the Clerk upon submission of an appropriate bill of costs; and it is further

ORDERED that the issue of the amount defendants owe to plaintiffs for attorneys' fees and costs of collection and expenses is severed; and it is further

ORDERED that a Judicial Hearing Officer (JHO) or Special Referee shall be designated to hear and report to this court on the issue of the amount defendants owe to plaintiffs for attorneys' fees and costs of collection and expenses to be reimbursed by defendant to plaintiffs except that, in the event of and upon the filing of a stipulation of the parties, as permitted by CPLR 4317, the Special Referee, or another person

designated by the parties to serve as Referee, shall determine the aforesaid issue; and it is further

ORDERED that the powers of the JHO/Special Referee shall not be limited beyond the limitations set forth in the CPLR; and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this court), shall assign this matter at the initial appearance to an available JHO/Special Referee to hear and report as specified above; and it is further

ORDERED that parties shall immediately consult one another and plaintiffs shall, within 15 days from the date of this Order, submit to the Special Referee an Information Sheet (accessible at the "References" link on the court's website) containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise counsel for the parties of the date fixed for the appearance of the matter upon the calendar of the Special Referees Part; and it is further

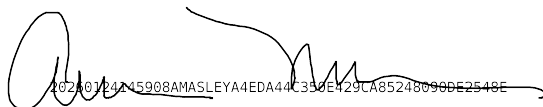
ORDERED that on the initial appearance in the Special Referees Part the parties shall appear for a pre-hearing conference before the assigned JHO/Special Referee and the date for the hearing shall be fixed at that conference. The parties need not appear at the conference with all witnesses and evidence; and it is further

ORDERED that, except as otherwise directed by the assigned JHO/Special Referee for good cause shown, the trial of the issue(s) specified above shall proceed from day to day until completion and counsel must arrange their schedules and those of their witnesses accordingly, and it is further

ORDERED that counsel shall file memoranda or other documents directed to the assigned JHO/Special Referee in accordance with the Uniform Rules of the Judicial Hearing Officers and the Special Referees (available at the "References" link on the court's website) by filing same with the New York State Courts Electronic Filing System (see Rule 2 of the Uniform Rules); and it is further

ORDERED that any motion to confirm or disaffirm the Report of the JHO/Special Referee shall be made within the time and in the manner specified in CPLR 4403 and Section 202.44 of the Uniform Rules for the Trial Courts; and it is further

ORDERED that plaintiffs shall submit the transcript (by email and NYSCEF) to be so ordered.



<u>1/24/2026</u> DATE		<u>ANDREA MASLEY, J.S.C.</u>
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input type="checkbox"/> GRANTED IN PART <input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE