

Spring Bank v Menexas
2026 NY Slip Op 30436(U)
January 14, 2026
Supreme Court, New York County
Docket Number: Index No. 655969/2020
Judge: Verna L. Saunders
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. VERNA L. SAUNDERS, JSC PART 36

Justice

INDEX NO. 655969/2020
MOTION SEQ. NO. 007
SPRING BANK, Plaintiff,

- v -

STEVEN MENEXAS, GEORGE MENEXAS, ESTATE OF ANTHONY KAMMAS, SKYLINE RISK MANAGEMENT, INC. Defendant.

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 007) 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207

were read on this motion to/for SUMMARY JUDGMENT

By the decision and order dated July 14, 2023, this court denied plaintiff's motion for summary judgment against defendants and permitted plaintiff to renew its cause of action for breach of contract and guaranty (NYSCEF Doc. No. 19, decision and order). In the instant motion, plaintiff moves for an order granting summary judgment pursuant to CPLR 3212 against George Menexas ("G. Menexas"), Skyline Risk Management, Inc., (hereinafter, "Skyline") and the Estate of Anthony Kammas ("A. Kammas" or "Kammas Estate")¹, and an order of replevin against Skyline together with costs, disbursements and attorneys' fees (NYSCEF Doc. No. 172, notice of motion).

Spring Bank contends that it is entitled to collect on promissory notes and personal guaranties in connection with loans in the combined amount of \$350,000.00 made to Skyline. According to plaintiff, it advanced an initial loan of \$250,000.00 ("First Loan" or "2016 Note") to Skyline on June 3, 2016, for which Skyline executed and delivered to Spring Bank a Security Agreement ("First Security Agreement"). Plaintiff posits that G. Menexas, S. Menexas² and A. Kammas, who were then officers of Skyline, each executed a written personal guaranty (collectively, the "2016 Guaranties"), whereby each guarantor unconditionally, jointly and severally guaranteed to Spring Bank the repayment of all amounts due and owing under the First Loan. Skyline also executed a promissory note (the "Note") in the amount of \$250,000.00 in favor of Spring Bank, with a maturity date in June 2017. Plaintiff notes that it filed a UCC-1 financial statement with the State of New York to secure its interest in Skyline's collateral.

¹ Anthony Kammas died on or about June 29, 2020. The Kammas Estate is currently administered by Maria Papaderos-Kammas, the wife of the late Mr. Anthony Kammas. The Kammas Estate is the only defendant opposing the instant summary judgment motion.

² In or about 2022, this action was stayed as a result of S. Menexas having filed for bankruptcy protection with the United States Bankruptcy Court, Eastern District of New York. On January 7, 2025, the bankruptcy court lifted the stay with respect to defendants Skyline, G. Menexas and Kammas Estate only. Thus, this motion only seeks judgment against Skyline, G. Menexas, and the Estate of Anthony Kammas.

Next, plaintiff asserts that it loaned an additional \$100,000.00 (“Second Loan”) to Skyline on March 10, 2017, for which Skyline executed an amended and restated promissory note (the, “Amended and Restated Note” or “2017 Note”) in the amount of \$350,000.00 to Spring Bank with a maturity date of March 10, 2018 (NYSCEF Doc. No. 181). Plaintiff insists that G. Menexas, S. Menexas, and A. Kammas each executed an unconditional guaranty whereby each promised to be jointly and severally liable to Spring Bank for the full and prompt payment of the Amended and Restated Note (collectively the “2017 Guaranties”) when it became due. According to plaintiff, on March 10, 2017, Skyline executed and delivered to Spring Bank an amended and restated security agreement (the, “Amended and Restated Security Agreement”), whereby Skyline granted Spring Bank a lien and security interest in all of Skyline’s personal property, assets, and other collateral to secure the amount of the Amended and Restated Note. Skyline and its guarantors exercised the extension option under the Amended and Restated Note by electing to extend the maturity date of the Amended and Restated note to March 10, 2019 (the “First Extension Notice”) (NYSCEF Doc. No. 182, *first extension notice*). A second amended and restated promissory note (the “Second Amended and Restated Note” or “2020 Note”) in the amount of \$350,000.00 in favor of Spring Bank was entered into, further extending the maturity date of the Amended and Restated Note to September 10, 2020 (NYSCEF Doc. No. 183, *second extension notice*). Plaintiff insists that Skyline defaulted on its payment obligations by failing to repay the principal and interest due and owing as of the September 10, 2020 maturity date of the 2020 Note. Spring Bank relies on the affidavit of its Chief Lending Officer, Akbar Rizvi, to argue that despite the service of a Notice of Default upon defendants, Skyline owes Spring Bank principal and interest in the amount of \$611,159.00 as of January 22, 2025, plus attorney’s fees, with a per diem interest accruing \$171.76/day (NYSCEF Doc. No. 173, *Rizvi affidavit*). Plaintiff also submits a ledger detailing the amounts due and owing as of January 22, 2025 (NYSCEF Doc. No. 186, *payoff calculation*).

In opposition, the Kammas Estate argues that plaintiff cannot obtain a money judgment against Skyline because plaintiff’s complaint neither pleads a cause of action for the breach of the 2016, 2017, or 2020 Note against Skyline, nor does plaintiff’s complaint seek any monetary damages against Skyline. The Kammas Estate asserts that the only causes of action pleaded in the complaint are against the individual defendants for breach of the 2016 and 2017 guaranties (first cause of action), and against Skyline for replevin of collateral (second cause of action). Plaintiff’s failure to amend its complaint to include a relief for monetary damages against Skyline has prejudiced Skyline’s ability to adapt its litigation strategy, including seeking discovery in this matter, argues the Kammas Estate. With regard to the second cause of action for replevin of collateral against Skyline, the Kammas Estate asserts that plaintiff cannot prevail on this cause of action insofar as the court denied said relief in plaintiff’s previous motion for summary judgment.

Next, the Kammas Estate posits that the 2020 guaranty is invalid because whereas plaintiff required the individual defendants to execute stand-alone 2016 and 2017 guaranties independent of and in addition to the 2016 and 2017 Notes, plaintiff does not submit any such stand-alone 2020 guaranty in support of its motion. The Kammas Estate asserts that the 2020 guaranty lacks authenticity, contending that the pages containing the guarantor signatures appended to the 2020 Note is incorrectly numbered as page two (2) whereas no such typo exist in the 2016 and 2017 guaranties. According to the Kammas Estate, to the extent a valid stand-alone 2020 guaranty was not attached to the moving papers, plaintiff cannot demonstrate the terms which the individual defendants were bound and breached; thus, summary judgment must be denied. The Kammas Estate further asserts that, because Anthony Kammas passed away on or about June 29, 2020, one (1) month

after plaintiff drafted the 2020 Note, there are issues of facts as to whether Kammas signed the 2020 Note.

Further, the Kammas Estate insists that the purported 2020 guaranty must be deemed a conditional guarantee of collection, not an unconditional guarantee of payment because such would improperly bind the Kammas Estate beyond the express terms of the guaranty. The Kammas Estate avers that discovery is needed to ascertain the intention of the parties with respect to the terms of the purported 2020 guaranty because after A. Kammas passed away, the Kammas Estate has not signed or reviewed any of the documents at issue here.

Lastly, the Kammas Estate maintains that because the 2020 Note amended the 2016 and 2017 Notes and guaranties, neither Skyline nor the Kammas Estate is liable pursuant to the 2016 and 2017 Notes. According to the Kammas Estates, A. Kammas did not receive ten dollars (\$10.00) as additional consideration from plaintiff pursuant to the 2016 and 2017 guaranties as required. To the extent the 2016 and 2017 guaranties were given for plaintiff's benefit and are being enforced by plaintiff, the Kammas Estate claims that the additional consideration should have been given to A. Kammas by plaintiff, not by Skyline. Kammas Estate contends that plaintiff's claim for damages in the amount of \$611,159.09 improperly encompasses interest for the periods of 2022 through January 7, 2025, during which time the matter was stayed as a result of S. Menexas having filed for bankruptcy. Kammas Estate also posits that plaintiff cannot recover attorneys' fees from defendant Kammas Estate as it has failed to plead a cause of action for attorneys' fees in its complaint (NYSCEF Doc. No. 193, *Klein affirmation in opposition*).

It is well-settled that the proponent of a motion for summary judgment must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact (see *Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]; *Zuckerman v City of New York*, 49 NY2d 557, 562 [1980].) Once this showing has been made, the burden shifts to the party opposing the motion to produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact which require a trial of the action or show that "facts essential to justify opposition may exist but cannot [now] be stated." (CPLR 3212[f]; see *Zuckerman*, 49 NY2d at 562).

In order to establish a *prima facie* case on a breach of contract claim, plaintiff must show proof of a contract, plaintiff's performance under the contract, defendant's breach thereof, and damages as a result (see *Belle Light. LLC v Artisan Constr. Partners LLC*, 178 AD3d 605, 606 [1st Dept 2019].) Where the plain language of the contract establishes obligations on the other party that have not been met, summary judgment is warranted (see *Barfield v RMTS Assoc.*, 283 AD2d 240, 241 [1st Dept 2001].)

As a preliminary issue, the court notes that even though plaintiff is moving to enforce the 2017 Note and Guaranty, the 2020 Note is the operative Note as it amended the 2017 Note. The court will treat the instant motion as an enforcement of the 2020 Note, which is the operative document. It has been held that where, as here, "[su]mmary judgment may be granted on an unpleaded cause of action if the proof supports the cause and the opposing party has not been misled to its prejudice" (*Torrioni v Unisul, Inc.*, 214 AD2d 314, 315 [1st Dept 1995]).

Here, summary judgment is granted as against Skyline on the first cause of action. Plaintiff submits evidence, in the form of the 2016, 2017, and 2020 Notes, evincing that it advanced monies to Skyline. Specifically, the ledger demonstrates the monies due and owing, and plaintiff's Default

Notice show that Skyline breached its contract with plaintiff by failing to make payments when the monies became due (see *Yonkers Ave. Dodge, Inc. v BZ Results, LLC*, 95 AD3d 774, 775 [1st Dept 2012]). Skyline does not oppose the motion. With respect to the individual defendants, the court cannot determine on these papers whether the individual defendants guaranteed the 2020 Note and, as such, summary judgment is denied with respect to the individual defendants. Spring Bank’s own proof contains issues of fact that mandate denial of the motion. Spring Bank’s Chief Lending Officer, Akbar Rizvi, states in his affidavit in support of the summary judgment motion that the individual defendants did not guarantee the 2020 Note, though the 2020 Note itself shows that the individual defendants signed their signatures on the portion of the 2020 Note titled “guarantors”. This further demonstrates that plaintiff has not met its prima facie burden on summary judgment as against the individual defendants as it highlights issues as to whether the individual guarantors in fact guaranteed the 2020 Note.

Next, the court, however, denies plaintiff’s second cause of action for order of replevin as against Skyline as same was considered and denied as part of the court’s decision and order dated July 14, 2023 (see *Matter of Setters v AI Props. & Devs. (USA) Corp.*, 139 AD3d 492, 492 [1st Dept 2016]).

Concerning the attorneys’ fees claim, plaintiff has demonstrated its entitled to same insofar as paragraph eight (8) of the 2020 Note provides that “[i]n the event that payee retains counsel to collect the debt after an event of default, maker agrees to pay on demand all costs of collection incurred by payee, including reasonable attorneys’ fees for the services of counsel whether or not suit be brought.” Thus, the branch of the motion seeking attorneys’ fees is granted as against Skyline only. All other arguments have been considered and are without merit. Accordingly, it is hereby

ORDERED that plaintiff’s motion for summary judgment is only granted as to the first cause of action for a breach of contract against defendant Skyline Risk Management, Inc., but it is otherwise denied; and it is further

ORDERED that the branch of the summary judgment motion seeking attorneys’ fees is granted as against defendant Skyline Risk Management, Inc., but it is otherwise denied, and plaintiff shall submit, within thirty (30) days of Notice of Entry of this decision and order, proof of attorneys’ fees including an affirmation of service setting forth details of the hours expended to the court; and it is further

ORDERED that, within twenty (20) days after this decision and order is uploaded to NYSCEF, counsel for plaintiff shall serve a copy of this decision and order, with notice of entry upon all parties.

January 14, 2026


HON. VERNA L. SAUNDERS, JSC

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

OTHER
 REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: