

<b>U.S. Bank N.A. v Patterson</b>
2026 NY Slip Op 31316(U)
March 30, 2026
Supreme Court, New York County
Docket Number: Index No. 850342/2025
Judge: Francis A. Kahn III
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

PRESENT: HON. FRANCIS A. KAHN, III PART 32

*Justice*

INDEX NO. 850342/2025

U.S. BANK NATIONAL ASSOCIATION, AS INDENTURE TRUSTEE ON BEHALF OF AND WITH RESPECT TO AJAX MORTGAGE LOAN TRUST 2019-D, MORTGAGE-BACKED SECURITIES, SERIES 2019-D,

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. 001

Plaintiff,

- v -

**DECISION + ORDER ON  
MOTION**

NADEZDA PATTERSON, JOHN DOE AND JANE DOE,

Defendant.

The following e-filed documents, listed by NYSCEF document number (Motion 001) 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73

were read on this motion to/for

JUDGMENT - SUMMARY

Upon the foregoing documents, the motion is determined as follows, and it is

In this commercial mortgage foreclosure action, Plaintiff moves for, *inter alia*, summary judgment against Defendant Nadezda Patterson (“Patterson”), a default judgment against the non-appearing parties, appointment of a referee to compute and to amend the caption. Non-party Donat De La Cruz (“De La Cruz”) submits limited opposition to the motion.

On the branches of the motion for summary judgment and a default judgment and appointment of a referee, Plaintiff established the mortgage, note, and evidence of Mortgagor’s default in repayment via the affirmation of Tricia Glodowski (“Glodowski”), a Document Verification Specialist of New Rez LLC, Plaintiff’s servicer, which was sufficiently supported by admissible business records annexed thereto (*see eg Bank of NY v Knowles*, 151 AD3d 596 [1<sup>st</sup> Dept 2017]; *Fortress Credit Corp. v Hudson Yards, LLC*, 78 AD3d 577 [1<sup>st</sup> Dept 2010]). The evidence proffered demonstrated Plaintiff’s standing in this matter. Likewise, the submissions proved that all the statutory and contractual pre-foreclosure requisites were fulfilled (*see generally United States Bank Trust, N.A. v Mehl*, 195 AD3d 1054 [2d Dept 2021]; *Citimortgage, Inc. v Ustick*, 188 AD3d 793, 794 [2d Dept 2020]).

As pled, all the affirmative defenses are entirely conclusory and unsupported by any facts in the answer. As such, these affirmative defenses are nothing more than unsubstantiated legal conclusions which are insufficiently pled as a matter of law (*see Board of Mgrs. of Ruppert Yorkville Towers Condominium v Hayden*, 169 AD3d 569 [1<sup>st</sup> Dept 2019]; *see also Bosco Credit V Trust Series 2012-1 v. Johnson*, 177 AD3d 561 [1<sup>st</sup> Dept 2020]; *170 W. Vil. Assoc. v. G & E Realty, Inc.*, 56 AD3d 372 [1st Dept 2008]; *see also Becher v Feller*, 64 AD3d 672 [2d Dept 2009]; *Cohen Fashion Opt., Inc. v V & M Opt., Inc.*, 51 AD3d 619 [2d Dept 2008]).

In opposition, De La Cruz's interest in the premises is ostensibly as a leaseholder whose interest indisputably arose after the mortgage was recorded, and therefore, is subordinate to Plaintiff's interest. In any event, De La Cruz failed to raise any issue of fact as to her affirmative defenses to the action.

The branch of Plaintiff's motion for a default judgment against the non-appearing parties is granted without opposition (*see* CPLR §3215; *SRMOF II 2012-I Trust v Tella*, 139 AD3d 599, 600 [1<sup>st</sup> Dept 2016]).

The branch of Plaintiff's motion to amend the caption is granted without opposition (*see generally* CPLR §3025; *JP Morgan Chase Bank, N.A. v Laszio*, 169 AD3d 885, 887 [2d Dept 2019]).

Accordingly, it is

ORDERED that Plaintiff's motion for summary judgment against the appearing parties and for a default judgment against the non-appearing parties is granted; and it is further

ORDERED that the answers and affirmative defenses pled by all the appearing Defendants are stricken; and it is further

ORDERED that **Matthew D. Hunter III, Esq., 71-01 Austin Street, Forest Hills, NY 11575 (718) 309-1660** is hereby appointed Referee in accordance with RPAPL §1321 to compute the amount due to Plaintiff and to examine whether the property identified in the notice of pendency can be sold in parcels; and it is further

ORDERED that in the discretion of the Referee, a hearing may be held, and testimony taken; and it is further

ORDERED that by accepting this appointment the Referee certifies that he is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2(c) ("Disqualifications from appointment"), and §36.2(d) ("Limitations on appointments based upon compensation"), and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED that, pursuant to CPLR 8003(a), and in the discretion of the court, a fee of \$350 shall be paid to the Referee for the computation of the amount due and upon the filing of his report and the Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR 8003(b); and it is further

ORDERED that the Referee is prohibited from accepting or retaining any funds for himself or paying funds to himself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED that if the Referee holds a hearing, the Referee may seek additional compensation at the Referee's usual and customary hourly rate; and it is further

ORDERED that Plaintiff shall forward all necessary documents to the Referee and to Defendants who have appeared in this case within 30 days of the date of this order and shall *promptly* respond to every inquiry made by the Referee (promptly means within two business days); and it is further

ORDERED that if Defendant(s) have objections, they must submit them to the Referee within 14 days of the mailing of Plaintiff’s submissions, and include these objections to the Court if opposing the motion for a judgment of foreclosure and sale; and it is further

ORDERED that failure to submit objections to the Referee may be deemed a waiver of objections before the Court on an application for a judgment of foreclosure and sale; and it is further

ORDERED that the caption be amended to substitute DONAT DE LA CRUZ, DANIEL DAVIL, EMRE SARICA, and MIRKO BOZOVIC as party defendants in place and stead of “JOHN DOE,” and to remove the fictitious “JOHN DOE” AND “JANE DOE”, and that the action be discontinued as to them, all of the foregoing without prejudice to any of the proceedings heretofore had or be had in this action; and it is further

ORDERED that the branch of the motion to add Frank Doe (Name Refused) as a defendant is denied as the New York County Clerk will not accept a judgment for filing with a “Doe” or “Named Refused” defendant in the caption; and it is further

ORDERED that the caption is amended as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
U.S. BANK NATIONAL ASSOCIATION, AS  
INDENTURE TRUSTEE ON BEHALF OF AND WITH  
RESPECT TO AJAX MORTGAGE LOAN TRUST 2019-  
D, MORTGAGE-BACKED SECURITIES, SERIES  
2019-D,

Plaintiff

-against-

NADEZDA PATTERSON; DONAT DE LA CRUZ,  
DANIEL DAVIL, EMRE SARICA, MIRKO BOZOVIC,,

Defendants.

-----X

and it is further

ORDERED that Plaintiff must bring a motion for a judgment of foreclosure and sale within 45 days of receipt of the referee’s report; and it is further

ORDERED that if Plaintiff fails to meet these deadlines, then the Court may *sua sponte* vacate this order and direct Plaintiff to move again for an order of reference and the Court may *sua sponte* toll

interest depending on whether the delays are due to Plaintiff's failure to move this litigation forward; and it is further

ORDERED that counsel for Plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the parties being removed pursuant hereto; and it is further

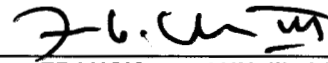
ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address (www.nycourts.gov/supctmanh)); and it is further

ORDERED that Plaintiff shall serve a copy of this Order with notice of entry on all parties and persons entitled to notice, including the Referee appointed herein.

All parties are to appear for a virtual conference via Microsoft Teams on **August 6, 2026 @ 10:40am**. If a motion for judgment of foreclosure and sale has been filed, Plaintiff may contact the Part Clerk (SFC-Part32-Clerk@nycourts.gov) in writing to request that the conference be cancelled. If a motion has not been made, then a conference is required to explore the reasons for the delay.

3/30/2026

DATE



FRANCIS A. KAHN, III, J.S.C.

CHECK ONE:

CASE DISPOSED  
GRANTED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION  
GRANTED IN PART  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: