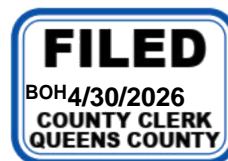


US Bank Trust N.A. v Southerland
2026 NY Slip Op 31756(U)
April 29, 2026
Supreme Court, Queens County
Docket Number: Index No. 716533/2024
Judge: Anna Culley
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

MEMORANDUM

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: HONORABLE ANNA CULLEY IA Part 27 Justice



US BANK TRUST NATIONAL ASSOCIATION, AS TRUSTEE OF THE CHALET SERIES IV TRUST,

Index Number 716533/2024

Plaintiff,

Motion Date January 13, 2026

-against-

Motion Seq. No. 1

ROSLYN SOUTHERLAND A/K/A ROSLYN FRANCES SOUTHERLAND A/K/A ROSLYN F. SOUTHERLAND; CREE SOUTHERLAND; KHALILIA SOUTHERLAND; SUSTAINABLE NEIGHBORHOODS LLC; OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK; MAXIM CREDIT CORP.; AMBASSADOR INVESTORS GROUP; "JOHN DOE" AND "JANE DOE" SAID NAMES BEING FICTITIOUS, IT BEING THE INTENTION OF PLAINTIFF TO DESIGNATE ANY AND ALL OCCUPANTS OF PREMISES BEING FORECLOSED HEREIN,

Defendants.

In this foreclosure action, plaintiff seeks to foreclose on real property located at 155-29 115th Drive, Jamaica, New York 11434, Block 12191, Lot 77 (the "subject property").

Plaintiff brings the instant motion for an order, inter alia, granting it summary judgment and an order of reference, dismissing the affirmative defenses of defendants Roslyn Southerland a/k/a Roslyn Frances Southerland a/k/a Roslyn F. Southerland, Cree Southerland, and Khalilia Southerland, (hereinafter collectively the "defendants") set forth in their jointly filed answer.

Regarding plaintiff's motion, it established a prima facie entitlement to foreclose on the subject property by demonstrating the existence of the mortgage and note, and the defendants' default in payment (see Deutsche Bank Natl. Trust Co. v Karibandi, 188 AD3d 650 [2d Dept 2020]). Plaintiff presented sufficient evidence to warrant the requested relief, pursuant to RPAPL §1321 and CPLR 3215, via submission of, inter alia, a certificate of merit pursuant to CPLR 3012-b; and the affirmation in support of Jordan Kahoalii, asset manager for SN Servicing Corporation, servicer and attorney in fact for plaintiff.

The burden then shifted to the defendants to submit proof sufficient to raise a genuine question of fact rebutting plaintiff's prima facie showing, or in support of the affirmative defenses asserted in their answer or otherwise available to them (*see Jessabell Realty Corp. v Gonzalez*, 177 AD3d 908 [2d Dept 2014]; *Flagstar Bank v Bellafiore*, 94 AD3d 1044 [2d Dept 2012]). Defendants fail to meet their burden.

The only appearing and answering defendants are the defendants mentioned above, who filed their answer on September 20, 2024. Said answer, which is only verified by Roslyn Southerland, sets forth general denials, nine boiler plate one-sentence affirmative defenses, and one counterclaim for attorneys' fees pursuant to RPL §282. Defendants oppose the instant motion, arguing that plaintiff failed to comply with contractual and statutorily required conditions precedent, and that the instant action is time-barred based on the loan being accelerated due to a prior foreclosure action commenced in 2013.

Contrary to defendants' arguments otherwise, plaintiff established, inter alia, that it strictly complied with the statutory conditions precedent, to include the notices of default and RPAPL §§1303, 1304, and 1306 notices (*see JPMorgan Chase Bank, N.A. v Joseph*, 193 AD3d 700 [2d Dept 2021]). Roslyn Southerland's bare and closure denials of receiving the 90-day notices and default notices are insufficient to rebut plaintiff's showing (*Nationstar Mtge., LLC v Osikoya*, 205 AD3d 1038, 1040 [2d Dept 2022]).

Additionally, although a prior foreclosure action was commenced and eventually discontinued, said discontinuance was based on Roslyn and Cree Southerland entering into a loan modification agreement on February 8, 2021, which they subsequently made payments on for a year and a half afterwards before eventually defaulting on the terms of that loan. Based on said loan modification agreement, the mortgage was properly de-accelerated and the instant action is not time-barred (*see General Obligations Law §5-1103; Deutsche Bank Natl. Trust Co. v Hasty*, 2026 NY Slip Op 01182 [2d Dept 2026]). Any remaining arguments raised in defendants' opposition not specifically addressed herein have been considered by the court and are further unavailing.

Accordingly, plaintiff's motion for an order: granting summary judgment pursuant to CPLR 3212 against defendants; dismissing the affirmative defenses set forth in their answer, pursuant to CPLR 3211(b); appointing a referee to compute the amount due to plaintiff and examine whether the subject property can be sold in parcels pursuant to RPAPL §1321; directing the City Register to discharge a satisfied prior mortgage; reforming the legal description of a certain mortgage to accurately describe the metes and bounds of the subject property; granting default judgment against all non-answering and non-appearing defendants; and substituting "JOHN DOE" and "JANE DOE" with "LALENYA SOUTHERLAND", "TRACY SOUTHERLAND", and "TRAYA SOUTHERLAND", and amending the caption accordingly, is granted.

Movant is not relieved from the applicable provisions of CPLR 2220 and 202.5-b (h) (2) of the Uniform Rules of Supreme and County Courts insofar as it relates to service and notice of

entry of the filed document upon all other parties to the action/proceeding, whether accomplished by mailing or electronic means, whichever may be appropriate dependent upon the filing status of the party.

Order signed herewith.



ANNA CULLEY, J.S.C.

Dated: April 29, 2026

