

Nationstar Mtge. LLC v Viruet
2026 NY Slip Op 31806(U)
April 22, 2026
Supreme Court, Queens County
Docket Number: Index No. 702851/2016
Judge: Claudia Lanzetta
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.

SUPREME COURT OF THE STATE OF NEW YORK
QUEENS COUNTY

PRESENT: HON. CLAUDIA LANZETTA PART 16

Justice

-----X

NATIONSTAR MORTGAGE LLC,
Plaintiff,

- v -

JEANNETTE VIRUET, NEW YORK CITY PARKING
VIOLATIONS BUREAU, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD, JANE DOE

Defendant.

INDEX NO. 702851/2016

Feb. 9, 2026 (15-17)

March 16, 2026

MOTION DATE (18)

MOTION SEQ. NO. 015, 016, 017, and 018

DECISION + ORDER ON MOTION

The following EF numbered papers were read on defendant pro se Jeannette Viruet's motion to dismiss and vacate proceeding (seq. 15), application to seal (seq. 17), and motion to compel discovery (seq. 18), and plaintiff's motion for an order extending the time to conduct a foreclosure sale and amending the caption (seq. 16).

Papers Numbered

Table listing papers and their corresponding EF numbers: Notice of Motion, Service (seq. 15) EF 245, 248; Affirmation in Opposition, Service EF 249, 252; Notice of Motion (Amended) EF 250, 254; Notice of Rejection, Service EF 251, 253; Opposition to Amended Notice, Service EF 267-268; Notice of Motion, Affirmation in Support, Exhibits (seq. 16) EF 255-261; Reply and Opposition to Motion, Service EF 262, 264; Reply in Opposition EF 269; Reply Affirmation EF 270-271; Order to Show Cause, Service (seq. 17) EF 265-266, 273; Notice of Motion, Service (seq. 18) EF 272, 274; Affirmation in Opposition EF 275-276; Reply, Service EF 277-278^1

Upon the foregoing papers, it is ordered that these motions and application are collectively decided as follows:

The Judgment of Foreclosure and Sale in this action was signed on July 24, 2018 and entered on September 20, 2018. Further, the Court notes moving defendant appeared and filed an

^1 Documents 279-281 not considered as not properly associated with any pending motion and/or improperly filed.

Answer herein, and had the opportunity and did file opposition to prior substantive motions, inclusive of the motion for Judgment of Foreclosure and Sale, in addition to filing her own substantive motions, inclusive of a motion to dismiss that was denied (*see* Short Form Order, Jan. 25, 2017, J. Butler [EF 67]), and numerous other “procedural” motions.

Defendant Viruet now comes before the Court, again seeking dismissal and vacatur of the entire proceeding, now based on the assertions that the statute of limitations expired and the plaintiff lacks standing. The arguments are improper and, nevertheless, without merit.

Initially, defendant’s statute of limitations argument is plainly based upon a misinterpretation of the law. Defendant does not argue that the statute of limitations expired prior to commencement of this action, but rather that it expired during the pendency of this action to wit: “This action was commenced in 2016. Nearly ten (10) years have elapsed, and the action now approaches 2026, far exceeding the six-year limitations period” (*see* EF 250 at pg. 5 of 14, ¶ 9). This is not how statute of limitations work (*see generally* *U.S. Bank N.A. v Simon*, 216 AD3d 1041, 1042 [2d Dept 2023]; *EMC Mtge. Corp. v Patella*, 279 AD2d 604, 605 [2d Dept 2001]; *Federal Natl. Mtge. Assn. v Mebane*, 208 AD2d 893 [2d Dept 1994]).

Moving on, it is axiomatic that “[a] judgment of foreclosure and sale is final as to all questions at issue between the parties, and concludes all matters of defense which were or could have been litigated in the foreclosure action” (*Eaddy v U.S. Bank N.A.*, 180 AD3d 756, 758 [2d Dept 2020], quoting *Ciraldo v JP Morgan Chase Bank, N.A.*, 140 AD3d 912, 913 [2d Dept 2016]; *see also Dupps v Betancourt*, 121 AD3d 746, 747 [2d Dept 2014]). Accordingly, given that judgment issued here, defendant, under the circumstances of this case, is precluded from raising the defense of lack of standing. The court notes judgment was issued upon consideration of defendant’s opposition to plaintiff’s motion for same (*see* Short Form Order, Nov. 14, 2017, J. Butler [EF 107]).

Further, the issue of plaintiff’s standing has been addressed in a prior Decision of this court (*see* Short Form Order, Feb. 28, 2017, J. Butler [EF 69]) and as such remains the law of the case (*see generally* *Matter of Koegel*, 184 AD3d 764, 765-766 [2d Dept 2020][internal citations and quotations omitted]; *see also Deutsche Bank Nat’l Trust Co. v Clark*, 246 AD3d 1029, 1031 [2d Dept 2026]). To the extent plaintiff’s motion for summary judgment was granted on defendant’s default in submitting opposition, defendant would first have to cure that default before the Court was able to consider any substantive arguments (*see generally* *U.S. Bank, N.A. v Blagman*, 188 AD3d 1284, 1285 [2d Dept 2020]; *see also U.S. Nat’l Assoc. v Singh*, 236 AD3d 965 [2d Dept 2025]²). This is not addressed in plaintiff’s submissions.

Defendant’s reliance on Assembly Bill A8721 (2025-2026 Session) is misplaced as same has not been enacted and is currently in the committee stage (New York State Senate, *Assembly Bill A8721*, <https://www.nysenate.gov/legislation/bills/2025/A8721> [last accessed on April 22, 2026]). Further, arguments relative to default are largely inapposite as defendant appeared in this action, and clearly, by virtue of her multitudinous submissions, had a full and fair opportunity to

² Although *Singh* does not contemplate a default in opposing a motion, it makes clear that to raise the defense of lack of standing a defendant cannot be in default (*see U.S. Nat’l Assoc. v Singh*, 236 AD3d at 967). The court employs *Singh* here by way of example.

be heard. Any remaining arguments raised by defendant and not specifically addressed herein are deemed without merit.

Considering the above, defendant's motion to dismiss and vacate this proceeding is denied in its entirety. Defendant's application to seal and motion to compel discovery are denied as academic. Plaintiff's motion to extend and amend is granted and the proposed order submitted shall be signed simultaneously herewith; and it is further

ORDERED that defendant Viruet is cautioned against filing any further applications that ignore the contents of this Order and the history of this matter, failure to do so may result in the imposition of sanctions against her; and it is further

ORDERED that any future applications or motions filed by defendant Viruet shall be accompanied by a copy of this Order; and it is further

ORDERED that plaintiff shall serve a copy of this Order with notice of entry upon moving defendant and all parties entitled to notice, along with a copy of the Order signed simultaneously herewith, within 20 days of the date of entry hereof.

Dated: April 22, 2026
Jamaica, New York



Claudia Lanzetta, JSC

