U.S. Bank Trust N.A. v Lalli
2026 NY Slip Op 32078(U)
May 27, 2026
Supreme Court, Nassau County
Docket Number: Index No. 608874/2022
Judge: Carolyn Mazzu Genovesi

SUPREME COURT OF THE STATE OF NEW YORK
NASSAU COUNTY

PRESENT: **HON. CAROLYN MAZZU GENOVESI** **PART 35**

Acting Justice

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INDEX NO. 608874/2022

U.S. BANK TRUST NATIONAL ASSOCIATION,

Plaintiff,

MOTION SEQ. NO. 004 005

- v -

ROBERT LALLI, GIUSEPPA LALLI, AARON RAPPAPORT, DAVID RAPPAPORT, JOHN DOE,

Defendants.

DECISION + ORDER ON MOTION

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 172, 173

were read on this motion to/for JUDGMENT - FORECLOSURE & SALE.

The following e-filed documents, listed by NYSCEF document number (Motion 005) 167, 168, 169, 170, 171, 174, 175, 176, 177

were read on this motion to/for DISMISS.

In an action to foreclose a mortgage, plaintiff moves for Judgment of Foreclosure and Sale; to confirm the referee's report; and to amend the caption (MS # 4). Defendant Giuseppa Lalli ("defendant") opposes the motion, and cross-moves to dismiss the complaint; and reject the referee's report (MS # 5).

"The report of a referee should be confirmed whenever the findings are substantially supported by the record, and the referee has clearly defined the issues and resolved matters of credibility." *HSBC Mortgage Corporation USA v. Lee, 228* A.D.3d 742 (2d Dep't 2024) quoting *U.S. Bank N.A. v. Moschetta*, 216 A.D.3d 848, 849 (2d Dep't 2023). Here, the referee's report includes computations of the amount due to plaintiff. Contrary to defendant's contention, the referee's failure to address the defendant's objections to the report is not an independent basis to deny this motion. "[A]s long as a defendant is not prejudiced by the inability to submit evidence directly to the referee, a referee's failure to notify a defendant and hold a hearing is not, by itself, a basis to reverse a judgment of foreclosure and sale and remit the matter for a hearing and a new determination of amounts owed." *LFC Acquisition 3, LLC v. Encino Homes Corp.*, 227 A.D.3d 1060, 1061 (2d Dep't 2024) quoting *U.S. Bank N.A. v. Glasgow*, 218 A.D.3d 717, 720 (2d Dep't 2023). The defendant is "not prejudiced by the referee's failure to hold a hearing" if "in opposing the motion, [the defendant] 'had an opportunity to raise questions and submit evidence directly to the Supreme Court.' " *Id* quoting *Bank of Am., N.A. v. Scher*, 205 A.D.3d 989, 990 (2d Dep't 2022).

Moreover, the Court finds defendant's objections do not warrant rejection of the referee's report. Defendant objects to certain charges of deferred interest and deferred escrow charges. However, in his report, the referee details how deferred interest was calculated, and the periods during which interest was charged. Additionally, defendant does not provide any authority to substantiate her claim that escrow charges, including insurance payments, must be individualized in the referee's report. Nor does defendant provide authority to support her claim that the plaintiff must provide documentation to recover insurance costs it paid in connection to the subject mortgage. Furthermore, the Court finds the referee's findings regarding late charges to comport with charges in the business records. In sum, the Court finds the referee's report to be substantially supported by the record.

Defendant cross-moves to dismiss the complaint, alleging plaintiff failed to comply with RPAPL 1306. Specifically, the RPAPL 1306 filing plaintiff submitted lists "0000000000" instead of defendant's telephone number. A plaintiff can demonstrate compliance with RPAPL 1306 by submitting proof that it filed the requisite statement with the superintendent of financial services, as required by that statute. *PROF-2013-S3 Legal Title Trust V v. Johnson,* 214 A.D.3d 745, 747

(2d Dep't 2023). Under RPAPL 1306, "[e]ach filing delivered to the superintendent shall be on such form as the superintendent shall prescribe, and shall include at a minimum... last known telephone number of the borrower..."

This Court previously held that a RPAPL 1306 filing which omitted the borrower's last known telephone number is defective. *Bank of New York Mellon v. Gargiulo*, 244 N.Y.S.3d 681 (Nassau Ct. Sup. Ct. 2025). However, in *AS Helios LLC v. Chauhan*, 247 A.D.3d 561, 562 (1st Dep't March 19, 2026), the Appellate Division, First Department held "purported omissions in the section 1306 filing of defendants' last known phone number, which is redacted in the record" are insufficient to "show that plaintiff did not comply with the requirements of RPAPL 1306... let alone that [this] omission[] would warrant dismissal of the complaint." This Court finds the redaction of the telephone number in *Chauhan* is indistinguishable from the replacement of the telephone number with a string of repetitive digits, as in the case at bar. Additionally, the Court is unaware of any precedent from the Appellate Division Second Department on this issue. "[T]he doctrine of stare decisis requires trial courts in this department to follow precedents set by the Appellate Division of another department until the Court of Appeals or [the Second Department] pronounces a contrary rule." *Mountain View Coach Lines, Inc. v. Storms,* 102 A.D.2d 663, 664 (2d Dep't 1984). Accordingly, the Court finds the omission of defendant's last know telephone number inconsequential. Plaintiff has therefore demonstrated compliance with RPAPL 1306. For the foregoing reasons, it is

ORDERED that plaintiff's motion (MS # 4) is GRANTED; and it is further

ORDERED that defendant's cross-motion (MS # 5) is DENIED; and it is further

ORDERED that the Proposed Order annexed to the moving papers shall be forwarded to the Foreclosure Department of this Court, and should it be consistent with the terms of this and prior Orders, it shall be executed upon completion of such review.

This constitutes the Decision and Order of the Court.

ENTER

Date: 5/27/26

Carolyn Mazzu Genovesi

Hon. Carolyn Mazzu Genovesi