

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND DEPARTMENT

Star201, LLC v. Martinez

2026 NY Slip Op 02144 · No. 2023-03918 · Decided April 8, 2026

SUMMARY

The Appellate Division, Second Department, reversed an order that conditionally granted Valentin Martinez summary judgment in a mortgage foreclosure action based on the plaintiff's alleged failure to comply with New York Limited Liability Company Law § 802. The court held that evidence showing the foreign LLC had commenced other mortgage foreclosure actions in New York did not establish that it was doing business in the state, and remitted the matter for determination of the plaintiff's motion on the merits.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Department
WRITING FOR THE COURT	Angela G. Iannacci, J.P.; Lara J. Genovesi; Carl J. Landicino; Laurence L. Love
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	April 8, 2026
DOCKET	2023-03918
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiff appealed from an order that conditionally granted the defendant's cross-motion for summary judgment dismissing the mortgage-foreclosure complaint against him and denied the plaintiff's motion for summary judgment and an order of reference without prejudice to renewal.
STANDARD OF REVIEW	De novo review of the legal sufficiency of the summary-judgment submissions and application of the law governing a foreign limited liability company's capacity to maintain an action in New York.
PRECEDENTIAL VALUE	published
PARTIES	Star201, LLC v. Valentin Martinez

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QUESTIONS PRESENTED

1. Whether Martinez established prima facie that Star201, a foreign limited liability company, was doing business in New York without authority and therefore could not maintain the foreclosure action under Limited Liability Company Law § 808(a).
2. Whether the Supreme Court properly conditionally granted Martinez's cross-motion for summary judgment and denied Star201's motion based on the asserted lack of compliance with Limited Liability Company Law § 802.

HOLDINGS

1. The defendant failed to establish prima facie that Star201 was doing business in New York. The mere commencement or maintenance of numerous actions in New York does not, by itself, constitute doing business in the state.
2. Summary judgment dismissing the complaint against Martinez was not warranted because he failed to make the required prima facie showing that Star201 was an unauthorized foreign limited liability company doing business in New York.

KEY QUOTATIONS

"[T]he mere maintenance of an action by . . . a foreign corporation does not constitute doing business within the State" (at *2)

"Thus, the defendant failed to establish, prima facie, that the plaintiff was engaged in doing business in this State." (at *2)

FACTUAL BACKGROUND

Star201, LLC brought a mortgage foreclosure action against Valentin Martinez. Martinez supported his cross-motion with evidence that Star201 had commenced numerous other mortgage foreclosure actions in New York. The Appellate Division held that this evidence showed only the maintenance of other actions and did not establish that Star201's New York business activities were systematic and regular enough to constitute doing business in the state.

PROCEDURAL HISTORY

Star201, LLC commenced a mortgage foreclosure action against Valentin Martinez and others. Martinez asserted that Star201 lacked capacity to sue because it was a foreign limited liability company doing business in New York without authorization and cross-moved for summary judgment. The Supreme Court, Queens County,

conditionally granted Martinez's cross-motion unless Star201 proved compliance with Limited Liability Company Law § 802 and denied Star201's motion without prejudice. The Appellate Division reversed the order insofar as appealed from, denied Martinez's cross-motion, vacated the denial of Star201's motion, and remitted for a determination on the merits.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter is remitted to the Supreme Court, Queens County, for a determination on the merits of Star201's motion for summary judgment on the complaint insofar as asserted against Martinez and for an order of reference. The portion of the order denying that motion without prejudice to renewal upon proof of compliance with Limited Liability Company Law § 802 was vacated.

CASES CITED

- JPMorgan Chase Bank, N.A. v. Didato, 185 AD3d 801, 802-803
- S & T Bank v. Spectrum Cabinet Sales, 247 AD2d 373, 373
- Highfill, Inc. v. Bruce & Iris, Inc., 50 AD3d 742, 743-744
- Federal Fin. Co. v. Levine, 281 AD2d 454, 455

OPINION

Star201, LLC v. Martinez 2026 NY Slip Op 02144
PER CURIAM.

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Slip Op 02144</p> <p>April 8, 2026</p> <p>Appellate Division, Second Department</p>
<p>Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.</p>
<p>This decision is uncorrected and subject to revision before publication in the Official Reports.
</p> </div> <div> <p>Star201, LLC, appellant,</p> <p>v</p> <p>Valentin Martinez,
respondent, et al., defendants.</p> </div> <p>Supreme Court of the State of New York, Appellate
Division, Second Judicial Department</p> <p>Decided on April 8, 2026</p> <p>2023-03918,
(Index No. 712094/21)</p> <p>Angela G. Iannacci, J.P.</p> <p>Lara J. Genovesi</p> <p>Carl J.

Landicino

Laurence L. Love, JJ.

Richland & Falkowski, PLLC, Washingtonville, NY (Daniel H. Richland of counsel), for appellant.

Twyla Cater, Jamaica, NY (Jennifer N. Levy of counsel), for respondent.

DECISION & ORDER

In an action to foreclose a mortgage, the plaintiff appeals from an order of the Supreme Court, Queens County (Carmen R. Velasquez, J.), dated March 14, 2023. The order, insofar as appealed from, conditionally granted the cross-motion of the defendant Valentin Martinez for summary judgment dismissing the complaint insofar as asserted against him unless the plaintiff provided proof of compliance with Limited Liability Company Law § 802 within 30 days of the order.

ORDERED that the order is reversed insofar as appealed from, on the law, with costs, the cross-motion of the defendant Valentin Martinez for summary judgment dismissing the complaint insofar as asserted against him is denied, so much of the order as denied the plaintiff's motion, inter alia, for summary judgment on the complaint insofar as asserted against that defendant and for an order of reference without prejudice to renew upon proof of compliance with Limited Liability Company Law § 802 is vacated, and the matter is remitted to the Supreme Court, Queens County, for a determination on the merits of the plaintiff's motion.

The plaintiff commenced this mortgage foreclosure action against, among others, the defendant Valentin Martinez (hereinafter the defendant). The defendant interposed an answer in which he asserted various affirmative defenses and counterclaims. The plaintiff subsequently moved, inter alia, for summary judgment on the complaint insofar as asserted against the defendant and for an order of reference. The defendant cross-moved for summary judgment dismissing the complaint insofar as asserted against him on the ground that the plaintiff lacked the capacity to sue in New York because it was a foreign limited liability company doing business in this State without authority. In an order dated March 14, 2023, the Supreme Court conditionally granted the defendant's cross-motion unless the plaintiff provided proof of compliance with Limited Liability Company Law § 802 within 30 days of the order, and denied the plaintiff's motion without prejudice to renew upon proof of compliance with Limited Liability Company Law § 802. The plaintiff appeals.

Limited Liability Company Law § 802(a) requires that "[b]efore doing business in this state, a foreign limited liability company shall apply for authority to do business in this state." Limited Liability Company Law § 808(a) provides that "[a] foreign limited liability company doing business in this state without having received a certificate of authority to do business in this state may not maintain any action, suit or special proceeding in any court of this state." Limited Liability Company Law § 803(a)(1) provides that "a foreign limited liability company shall not be considered to be doing business in this state for the purposes of this chapter, by . . . maintaining or defending any action or proceeding, whether judicial, administrative, arbitral or otherwise or effecting settlement thereof or the settlement of claims or disputes."

"[T]he party relying upon [the] statutory barrier bears the burden of proving that the corporation's business activities in New York were not just casual or occasional, but so systematic and regular as to manifest continuity of activity in the jurisdiction"

(*JPMorgan Chase Bank, N.A. v Didato*, 185 AD3d 801, 802-803 [internal quotation marks omitted]; *see* *S & T Bank v Spectrum Cabinet Sales*, 247 AD2d 373, 373). "[A]bsent proof establishing that the [subject corporation] is doing business in New York, it is presumed that [it] is doing business in [the] State of incorporation and not in New York" (*JPMorgan Chase Bank, N.A. v Didato*, 185 AD3d at 803 [internal quotation marks omitted]; *see* *Highfill, Inc. v Bruce & Iris, Inc.*, 50 AD3d 742, 743-744). "[T]he mere maintenance of an action by . . . a foreign corporation does not constitute doing business within the State" (*Federal Fin. Co. v Levine*, 281 AD2d 454, 455 [internal quotation marks omitted]; *see* Limited Liability Company Law § 803).

Here, the evidence submitted by the defendant in support of his cross-motion established only that the plaintiff has commenced numerous other mortgage foreclosure actions in New York. However, the mere maintenance of an action by a foreign corporation does not constitute doing business within the State (*see* Limited Liability Company Law § 803; *JPMorgan Chase Bank, N.A. v Didato*, 185 AD3d at 802-803; *Federal Fin. Co. v Levine*, 281 AD2d at 455). Thus, the defendant failed to establish, prima facie, that the plaintiff was engaged in doing business in this State.

Accordingly, the Supreme Court erred in conditionally granting the defendant's cross-motion for summary judgment dismissing the complaint insofar as asserted against him unless the plaintiff provided proof of compliance with Limited Liability Company Law § 802 within 30 days of the order.

IANNACCI, J.P., GENOVESI, LANDICINO and LOVE, JJ., concur.

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