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

U.S. Bank N.A. v. Morton

2026 NY Slip Op 00167 · No. 2022-07927 · Decided January 14, 2026

SUMMARY

The Appellate Division, Second Department affirmed an order denying Allen J. Morton and Patsy J. Morton leave to renew their opposition to the plaintiff's prior motion for summary judgment and an order of reference in a mortgage foreclosure action. The court held that the defendants failed to show that the alleged new facts would have changed the prior determination and failed to provide a reasonable justification for not presenting those facts earlier.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; William G. Ford, J.; Helen Voutsinas, J.; Carl J. Landicino, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	January 14, 2026
DOCKET	2022-07927
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants Allen J. Morton and Patsy J. Morton appealed from an order denying their motion for leave to renew their opposition to the plaintiff's prior motion for summary judgment and an order of reference in a mortgage-foreclosure action.
STANDARD OF REVIEW	A motion for leave to renew must be based on new facts not offered on the prior motion that would change the prior determination, or demonstrate a change in the law that would change the prior determination, and must provide a reasonable justification for the failure to present the facts previously.
PRECEDENTIAL VALUE	Published
PARTIES	Allen J. Morton, Patsy J. Morton v. U.S. Bank National Association

TOPICS

foreclosure | summary judgment | motion for reconsideration | civil procedure | appellate procedure

PRACTICE AREAS

civil procedure | foreclosure | real estate | appellate procedure

QUESTIONS PRESENTED

1. Whether the defendants were entitled to leave to renew their opposition to the plaintiff's prior motion for summary judgment and an order of reference based on allegedly new facts.
2. Whether the defendants provided a reasonable justification for failing to present the alleged new facts on the prior motion.

HOLDINGS

1. Leave to renew was properly denied because the defendants failed to demonstrate that the allegedly new facts would have changed the prior determination.
2. Leave to renew was properly denied because the defendants failed to provide a reasonable justification for their failure to present the alleged new facts in opposition to the plaintiff's prior motion.

KEY QUOTATIONS

> *“A motion for leave to renew "shall be based upon new facts not offered on the prior motion that would change the prior determination or shall demonstrate that there has been a change in the law that would change the prior determination" and "shall contain reasonable justification for the failure to present such facts on the prior motion"”* ([*2])

FACTUAL BACKGROUND

U.S. Bank commenced an action to foreclose a mortgage on real property in Mount Kisco against Allen J. Morton, Patsy J. Morton, and others. The Supreme Court granted U.S. Bank summary judgment on the complaint against the Mortons and an order of reference, later confirming the referee's report and entering a judgment of foreclosure and sale. After the Appellate Division affirmed that judgment, the Mortons sought leave to renew their opposition based on allegedly new facts, but failed to show that the facts would have changed the prior determination or that they had a reasonable justification for not presenting them earlier.

PROCEDURAL HISTORY

The Supreme Court denied defendants' motion to dismiss, later denied their motion for summary judgment, and granted U.S. Bank's motion for summary judgment and an order of reference. The court subsequently entered a judgment of foreclosure and sale, which the Appellate Division affirmed. Defendants then moved for leave to renew their opposition based on allegedly new facts, and the Supreme Court denied that branch of the motion; the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- U.S. Bank N.A. v. Morton, 196 AD3d 715
- Citimortgage, Inc. v. Sparozic, 223 AD3d 867, 868
- Wilmington Sav. Fund Socy. FSB v. Khandaker, 217 AD3d 729, 730
- Dudley-Lanier v. City of New York, 210 AD3d 739, 741
- Aloi v. Tobal, 236 AD3d 618
- Bank of Am., N.A. v. Mancia-Parone, 192 AD3d 739, 741
- Wells Fargo Bank, N.A. v. Mone, 185 AD3d 626, 629
- Deutsche Bank Trust Co. v. Ghaness, 100 AD3d 585, 586

OPINION

U.S. Bank N.A. v. Morton 2026 NY Slip Op 00167
PER CURIAM.
U.S. Bank N.A. v Morton (2026 NY Slip Op 00167) U.S. Bank N.A. v Morton 2026 NY Slip Op 00167 Decided on January 14, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on January 14, 2026
SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Second Judicial Department FRANCESCA E. CONNOLLY, J.P.
WILLIAM G. FORD
HELEN VOUTSINAS
CARL J. LANDICINO, JJ. 2022-07927
(Index No. 67501/16) [*1]U.S. Bank National Association, respondent, v Allen J. Morton, etc., et al., appellants, et al., defendants. Michael Kennedy Karlson, New York, NY, for appellants. Hinshaw & Culbertson LLP, New York, NY (Charles W. Miller III and Leah R. Lenz of counsel), for respondent. DECISION & ORDER In an action to foreclose a mortgage, the defendants Allen J. Morton and Patsy J. Morton appeal from an order of the Supreme Court, Westchester County (Alexandra D. Murphy, J.), dated August 15, 2022. The order, insofar as appealed from, denied that branch of those defendants' motion which was for leave to renew their opposition to those branches of the plaintiff's prior motion which were for summary judgment on the complaint insofar as asserted against them and for an order of reference, which had been granted in an order of the same court (William J. Giacomo, J.) dated July 16, 2018. ORDERED that the order is affirmed insofar as appealed from, with costs. On November 22, 2016, the plaintiff commenced this action against, among others, the defendants Allen J. Morton and Patsy J. Morton (hereinafter together the defendants) to foreclose a mortgage on certain real property

located in Mount Kisco. In an order dated July 7, 2017, the Supreme Court denied the defendants' motion pursuant to CPLR 3211(a) to dismiss the complaint insofar as asserted against them. Thereafter, the defendants interposed an answer to the complaint. In an order dated July 16, 2018, the Supreme Court, inter alia, denied the defendants' motion for summary judgment dismissing the complaint insofar as asserted against them and granted the plaintiff's motion, among other things, for summary judgment on the complaint insofar as asserted against the defendants and for an order of reference. In an order dated August 6, 2018, the court, inter alia, referred the matter to a referee to ascertain and compute the amount due to the plaintiff. Thereafter, in an order dated May 7, 2019, the Supreme Court granted the plaintiff's motion to confirm the referee's report and for a judgment of foreclosure and sale. On the same day, the court issued an order and judgment of foreclosure and sale, among other things, confirming the referee's report and directing the sale of the property. In a decision and order dated July 28, 2021, this Court affirmed the order and judgment of foreclosure and sale (see U.S. Bank N.A. v Morton , 196 AD3d 715). In April 2022, the defendants moved, inter alia, for leave to renew their opposition [*2]to those branches of the plaintiff's prior motion which were for summary judgment on the complaint insofar as asserted against them and for an order of reference. The plaintiff opposed the motion. In an order dated August 15, 2022, the Supreme Court, among other things, denied that branch of the defendants' motion. The defendants appeal. A motion for leave to renew "shall be based upon new facts not offered on the prior motion that would change the prior determination or shall demonstrate that there has been a change in the law that would change the prior determination" and "shall contain reasonable justification for the failure to present such facts on the prior motion" (CPLR 2221[e][2], [3]; see Citimortgage, Inc. v Sparozic , 223 AD3d 867 , 868; Wilmington Sav. Fund Socy. FSB v Khandaker , 217 AD3d 729 , 730). Contrary to the plaintiff's contention, to the extent the defendants' motion, inter alia, for leave to renew was based on the existence of allegedly new facts, the motion was not untimely (see Dudley-Lanier v City of New York , 210 AD3d 739 , 741). However, the defendants failed to demonstrate that the allegedly new facts would have changed the prior determination (see Aloi v Tobal , 236 AD3d 618). The defendants also failed to provide a reasonable justification for their failure to present the alleged new facts in opposition to the plaintiff's prior motion, among other things, for summary judgment on the complaint insofar as asserted against the defendants (see Bank of Am., N.A. v Mancia-Parone , 192 AD3d 739, 741 ; Wells Fargo Bank, N.A. v Mone , 185 AD3d 626 , 629; Deutsche Bank Trust Co. v Ghaness , 100 AD3d 585 , 586). Accordingly, the Supreme Court properly denied that branch of the defendants' motion which was for leave to renew their opposition to those branches of the plaintiff's prior motion which were for summary judgment on the complaint insofar as asserted against them and for an order of reference. CONNOLLY, J.P., FORD, VOUTSINAS and LANDICINO, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court