

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

Wells Fargo Bank, N.A. v. Stein

2026 NY Slip Op 02869 · No. 2022-09298, 2022-09299 · Decided May 6, 2026

SUMMARY

The New York Appellate Division, Second Department affirmed two orders granting Wells Fargo Bank, N.A. summary judgment, striking Hannah Stein's answer, and directing an order of reference in a mortgage foreclosure action. The court held that the plaintiff did not establish that Stein lacked standing to defend but did establish prima facie compliance with the mailing requirements of RPAPL 1304. Stein's bare denial of receipt was insufficient to raise a triable issue of fact.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial 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 Judicial Department
DECIDED	May 6, 2026
DOCKET	2022-09298, 2022-09299
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from two orders granting the mortgage plaintiff summary judgment, striking the defendant's answer, and granting an order of reference.
STANDARD OF REVIEW	The court reviewed the summary-judgment determination to determine whether the plaintiff established its entitlement to judgment as a matter of law and whether the defendant raised a triable issue of fact.
PRECEDENTIAL VALUE	published
PARTIES	Hannah Stein v. Wells Fargo Bank, N.A.

TOPICS

- foreclosure
- mortgages
- summary judgment
- appellate procedure
- preservation of error

PRACTICE AREAS

real estate

mortgage foreclosure

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether Wells Fargo established that Stein lacked standing to defend the foreclosure action because she had conveyed all of her interest in the mortgaged premises.
2. Whether Wells Fargo established prima facie compliance with the mailing requirements of RPAPL 1304 for purposes of summary judgment.
3. Whether Stein's bare denial of receipt of the RPAPL 1304 notice raised a triable issue of fact.
4. Whether Stein's remaining contentions were preserved for appellate review.

HOLDINGS

1. Wells Fargo failed to demonstrate that Stein lacked standing to defend the action on the asserted basis that she had made an absolute conveyance of all her interest in the mortgaged premises.
2. Wells Fargo established prima facie strict compliance with RPAPL 1304 by submitting proof of a standard office mailing procedure, sworn to by an employee with personal knowledge, together with business records confirming that the procedure was followed in this case.
3. The remaining contentions were either without merit or improperly raised for the first time on appeal and therefore were not properly before the court.

KEY QUOTATIONS

*“Proof of the requisite mailings of the RPAPL 1304 notices may be established with proof of the actual mailings, such as affidavits of mailing or domestic return receipts with attendant signatures, or proof of a standard office mailing procedure designed to ensure that items are properly addressed and mailed, sworn to by someone with personal knowledge of the procedure” ([*2])*

FACTUAL BACKGROUND

Wells Fargo brought an action to foreclose a mortgage on real property in Brooklyn. Stein served an answer raising affirmative defenses. Wells Fargo presented evidence of its mailing procedures for the notices required by RPAPL 1304, including an employee affidavit based on personal knowledge and business records confirming that the procedures were followed. Stein opposed the motion with a bare denial that she received the RPAPL 1304 notice.

PROCEDURAL HISTORY

Wells Fargo commenced a mortgage-foreclosure action against Hannah Stein and others. Stein answered and asserted affirmative defenses. The Supreme Court, Kings County, granted Wells Fargo's motion for summary judgment against Stein, struck her answer, and referred the matter to a referee to compute the amount due. Stein appealed, and the Appellate Division affirmed on grounds different from those relied on by the Supreme Court.

DISPOSITION

affirmed

CASES CITED

- LaSalle Bank N.A. v. Abedin, 236 AD3d 773, 775-776
- Onewest Bank FSB v. Thomas, 242 AD3d 1005, 1008
- Wilmington Sav. Fund Socy., FSB v. Blum, 241 AD3d 857, 858
- Homebridge Fin. Servs., Inc. v. Mauras, 201 AD3d 890, 892
- U.S. Bank N.A. v. Panzer, 189 AD3d 1109
- Bank of Am., N.A. v. Gonzalez, 219 AD3d 433, 434
- MTGLQ Invs., L.P. v. Assim, 209 AD3d 1006, 1008
- Nationstar Mtge., LLC v. LaPorte, 162 AD3d 784, 786

OPINION

Wells Fargo Bank, N.A. v. Stein 2026 NY Slip Op 02869

PER CURIAM.

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<p>2026 NY Slip Op 02869</p> <p>May 6, 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>Wells Fargo Bank, N.A., respondent,</p> <p>v</p>
<p>Hannah Stein, etc., appellant, et al., defendants.</p> </div> <p>Supreme Court of the State of
New York, Appellate Division, Second Judicial Department</p> <p>Decided on May 6, 2026</p>
<p>2022-09298, 2022-09299, (Index No. 506179/14)</p> <p>Angela G. Iannacci, J.P.</p>
<p>Lara J. Genovesi</p> <p>Carl J. Landicino</p> <p>Laurence L. Love, JJ.</p> <div>
<p>Law Office of Samuel Katz, PLLC, Brooklyn, NY (Joseph J. Schwartz of counsel), for
appellant.</p> <p>Reed Smith LLP, New York, NY (James N. Faller and Andrew B. Messite of
counsel), for respondent.</p> </div> [*1] <p>DECISION & ORDER</p>
<p>In an action to foreclose a mortgage, the defendant Hannah Stein appeals from two orders of
the Supreme Court, Kings County (Larry Martin, J.), both dated August 18, 2022. The first order,
insofar as appealed from, granted those branches of the plaintiff's motion which were for summary

judgment on the complaint insofar as asserted against that defendant, to strike that defendant's answer, and for an order of reference. The second order, insofar as appealed from, granted the same relief to the plaintiff and referred the matter to a referee to compute the amount due to the plaintiff.

ORDERED that the orders are affirmed insofar as appealed from, with costs.

The plaintiff commenced this action against the defendant Hannah Stein (hereinafter the defendant), among others, to foreclose a mortgage on certain real property located in Brooklyn. The defendant served an answer to the complaint, raising various affirmative defenses.

The plaintiff moved, inter alia, for summary judgment on the complaint insofar as asserted against the defendant, to strike the defendant's answer, and for an order of reference. In an order dated August 18, 2022, the Supreme Court, among other things, granted those branches of the plaintiff's motion. In a second order also dated August 18, 2022, the court, inter alia, granted the same relief to the plaintiff and referred the matter to a referee to compute the amount due to the plaintiff. The defendant appeals. We affirm, but on grounds different from those relied upon by the Supreme Court.

Contrary to the plaintiff's contention, it failed to demonstrate that the defendant lacked standing to defend this action on the basis that the defendant "made an absolute conveyance of all . . . her interest in the mortgaged premises" (*LaSalle Bank N.A. v Abedin*, 236 AD3d 773, 775-776; *see* RPAPL 1311[1]).

Nevertheless, contrary to the defendant's contention, the plaintiff demonstrated, prima facie, its strict compliance with the mailing requirements of RPAPL 1304. "Proof of the requisite mailings of the RPAPL 1304 notices may be established with proof of the actual mailings, such as affidavits of mailing or domestic return receipts with attendant signatures, or proof of a standard office mailing procedure designed to ensure that items are properly addressed and mailed, sworn to by someone with personal knowledge of the procedure" (*Onewest Bank FSB v Thomas*, 242 AD3d 1005, 1008 [internal quotation marks omitted]; *see* *Wilmington Sav. Fund Socy., FSB v Blum*, 241 AD3d 857, 858).

Here, the plaintiff, which performed the mailing itself, established its compliance with the mailing requirements of RPAPL 1304 through proof of a standard office mailing procedure designed to ensure that items are properly addressed and mailed, sworn to by its employee, who had personal knowledge of the procedure (*see* *Homebridge Fin. Servs., Inc. v Mauras*, 201 AD3d 890, 892; *U.S. Bank N.A. v Panzer*, 189 AD3d 1109). The affiant further made "reference to business records annexed to the affidavit, which confirmed that those procedures were adhered to in this case" (*Bank of Am., N.A. v Gonzalez*, 219 AD3d 433, 434). In opposition, the defendant's bare denial of receipt of the RPAPL 1304 notice was insufficient to raise a triable issue of fact (*see* *MTGLQ Invs., L.P. v Assim*, 209 AD3d 1006, 1008; *Nationstar Mtge., LLC v. LaPorte*, 162 AD3d 784, 786).

The defendant's remaining contentions are either without merit or improperly raised for the first time on appeal and, thus, not properly before this Court.

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

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PER CURIAM.

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standing to defend this action on the basis that the defendant "made an absolute conveyance of all . . . her interest in the mortgaged premises" (LaSalle Bank N.A. v Abedin , 236 AD3d 773, 775-776; see RPAPL 1311[1]). Nevertheless, contrary to the defendant's contention, the plaintiff demonstrated, prima facie, its strict compliance with the mailing requirements of RPAPL 1304. "Proof of the requisite [*2] mailings of the RPAPL 1304 notices may be established with proof of the actual mailings, such as affidavits of mailing or domestic return receipts with attendant signatures, or proof of a standard office mailing procedure designed to ensure that items are properly addressed and mailed, sworn to by someone with personal knowledge of the procedure" (Onewest Bank FSB v Thomas , 242 AD3d 1005, 1008 [internal quotation marks omitted]; see Wilmington Sav. Fund Socy., FSB v Blum , 241 AD3d 857, 858). Here, the plaintiff, which performed the mailing itself, established its compliance with the mailing requirements of RPAPL 1304 through proof of a standard office mailing procedure designed to ensure that items are properly addressed and mailed, sworn to by its employee, who had personal knowledge of the procedure (see Homebridge Fin. Servs., Inc. v Mauras , 201 AD3d 890, 892; U.S. Bank N.A. v Panzer , 189 AD3d 1109). The affiant further made "reference to business records annexed to the affidavit, which confirmed that those procedures were adhered to in this case" (Bank of Am., N.A. v Gonzalez , 219 AD3d 433, 434). In opposition, the defendant's bare denial of receipt of the RPAPL 1304 notice was insufficient to raise a triable issue of fact (see MTGLQ Invs., L.P. v Assim , 209 AD3d 1006, 1008; Nationstar Mtge., LLC v. LaPorte , 162 AD3d 784, 786). The defendant's remaining contentions are either without merit or improperly raised for the first time on appeal and, thus, not properly before this Court. IANNACCI, J.P., GENOVESI, LANDICINO and LOVE, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.

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