

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

U.S. Bank National Association v. Suffolk County Public
Administrator

2026 NY Slip Op 00282 · No. 2024-13499 · Decided January 21, 2026

SUMMARY

The Appellate Division, Second Department dismissed 260LA, LLC's appeal from an order denying its motion to vacate a foreclosure judgment and obtain related relief. The court held that the appellate record was inadequate because it omitted key documents, including the order of reference, the order and judgment of foreclosure and sale, and the affidavit of service.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Paul Wooten, J.; Barry E. Warhit, J.; Donna-Marie E. Golia, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	January 21, 2026
DOCKET	2024-13499
DISPOSITION	dismissed
PROCEDURAL POSTURE	In a mortgage foreclosure action, nonparty 260LA, LLC appealed from an order denying its CPLR 5015(a) motion to vacate an order and judgment of foreclosure and sale and, upon vacatur, to dismiss the complaint or obtain leave to file a late answer.
STANDARD OF REVIEW	The appeal was dismissed without reaching the merits because the appellate record was inadequate under CPLR 5526.
PRECEDENTIAL VALUE	Published New York appellate decision
PARTIES	260LA, LLC, nonparty-appellant v. U.S. Bank National Association, respondent

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the appeal should be dismissed because the appellant failed to assemble a complete appellate record containing the papers and exhibits upon which the order appealed from was founded.

HOLDINGS

1. An appeal may be dismissed when the appellant's record omits relevant papers and exhibits upon which the order appealed from was founded, and the omissions prevent the appellate court from making an informed decision on the merits.

KEY QUOTATIONS

“CPLR 5526 requires that a record on appeal contain the papers and exhibits upon which the order appealed from was founded.” (2026 NY Slip Op 00282)

“Since these omissions inhibit this Court's ability to render an informed decision on the merits, dismissal of the appeal is appropriate” (2026 NY Slip Op 00282)

FACTUAL BACKGROUND

The underlying action was brought to foreclose a mortgage. 260LA, LLC, a nonparty, sought to vacate the foreclosure-related order and judgment and obtain dismissal of the complaint or leave to file a late answer, but its appellate record omitted the order of reference, the order and judgment of foreclosure and sale, and the affidavit of service of the motion.

PROCEDURAL HISTORY

The Supreme Court, Suffolk County, denied 260LA's motion in an order dated December 10, 2024. The Appellate Division dismissed the appeal because the appellant failed to provide a complete record containing papers and exhibits upon which the challenged order was founded.

DISPOSITION

dismissed

CASES CITED

- McWhinney v. Rockland Cider Works, LLC, 233 A.D.3d 668, 669
- Bruzzese v. Bruzzese, 203 A.D.3d 1007, 1010
- Klein v. Rich's Towing, 213 A.D.3d 920, 920-921

- Babayev v. Kreitzman, 168 A.D.3d 655, 655
- Ravasio v. La Pata, 216 A.D.3d 686, 687

OPINION

PER CURIAM.

U.S. Bank N.A. v Suffolk County Pub. Admr. (2026 NY Slip Op 00282) U.S. Bank N.A. v Suffolk County Pub. Admr. 2026 NY Slip Op 00282 Decided on January 21, 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 21, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department MARK C. DILLON, J.P. PAUL WOOTEN BARRY E. WARHIT DONNA-MARIE E. GOLIA, JJ. 2024-13499 (Index No. 50356/09) [*1]U.S. Bank National Association, etc., respondent, v Suffolk County Public Administrator, etc., et al., defendants; 260LA, LLC, etc., nonparty-appellant.

Christopher Thompson (McKinley Law, P.C., Lloyd Harbor, NY [Shannon C. McKinley], of counsel), for nonparty-appellant. Davidson Fink LLP, Rochester, NY (Richard N. Franco of counsel), for respondent. DECISION & ORDER In an action to foreclose a mortgage, nonparty 260LA, LLC, appeals from an order of the Supreme Court, Suffolk County (S. Betsy Heckman Torres, J.), dated December 10, 2024.

The order denied that nonparty's motion pursuant to CPLR 5015(a) to vacate, inter alia, an order and judgment of foreclosure and sale (one paper) of the same court entered April 5, 2024, and, upon vacatur, to dismiss the complaint or, in the alternative, for leave to file a late answer. ORDERED that the appeal is dismissed, with costs. "CPLR 5526 requires that a record on appeal contain the papers and exhibits upon which the order appealed from was founded.

It is the obligation of the appellant to assemble a proper record on appeal" (McWhinney v Rockland Cider Works, LLC, 233 AD3d 668, 669, quoting Bruzzese v Bruzzese, 203 AD3d 1007, 1010; see Klein v Richs Towing, 213 AD3d 920, 920-921). "Generally speaking, [a]n appellant's record on appeal must contain all of the relevant papers before the Supreme Court" (McWhinney v Rockland Cider Works, LLC, 233 AD3d at 669, quoting Babayev v Kreitzman, 168 AD3d 655, 655; see CPLR 5526).

Here, the record is inadequate, as it does not include, inter alia, a copy of the order of reference, the order and judgment of foreclosure and sale, or the affidavit of service of the subject motion, upon all of which the appellant relies on this appeal. Since these omissions "'inhibit [this] [C]ourt's ability to render an informed decision on the merits of the appeal,'" dismissal of the appeal is

appropriate (*McWhinney v Rockland Cider Works, LLC*, 233 AD3d at 669, quoting *Ravasio v La Pata*, 216 AD3d 686, 687; see *Klein v Richs Towing*, 213 AD3d at 921).

DILLON, J.P., WOOTEN, WARHIT and GOLIA, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

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