

**White Oak ABL 3, LLC v 501 Jersey Ave. LLC**

2026 NY Slip Op 30963(U)

March 12, 2026

Supreme Court, Kings County

Docket Number: Index No. 504214/25

Judge: Wavny Toussaint

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This opinion is uncorrected and not selected for official publication.

At an IAS Term, Part 70 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 12<sup>th</sup> day of March, 2026.

P R E S E N T:  
HON. WAVNY TOUSSAINT,  
Justice.

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WHITE OAK ABL 3, LLC, as successor-in-interest to LAKELAND BANK,

Index No. 504214/25

Plaintiff,

**DECISION AND ORDER**

-against-

501 JERSEY AVENUE LLC, JOSEPH SAADIA, FAME FASHION HOUSE LLC, and S3 HOLDING LLC,

Defendants.

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The following e-filed papers read herein:

NYSCEF Doc. Nos.:

Notice of Motion/Order to Show Cause/  
Petition/Cross Motion and  
Affidavits (Affirmations) Annexed \_\_\_\_\_

5, 7, 10, 15, 17, 22, 41, 43,  
48, 50, 56, 68, 70, 92, 94

Opposing Affidavits (Affirmations) \_\_\_\_\_

28, 64

Upon the foregoing papers, nonparty Davidson 2005 LLC (Davidson) moves (Seq. 01) for an order, pursuant to CPLR § 3103 (a), quashing, or in the alternative modifying, a subpoena duces tecum served upon T.D. Bank, N.A. (TD Bank) by plaintiff/judgment creditor White Oak ABL 3, LLC, as successor-in-interest to Lakeland Bank (plaintiff), and for a protective order.

By separate motion, Davidson moves (Seq. 02) for an order, (1) pursuant to CPLR § 3103 (a), quashing, or in the alternative modifying, a subpoena duces tecum served by plaintiff upon Davidson and for a protective order, and (2) pursuant to 22 NYCRR § 130-1.1 (a), awarding sanctions in the amount of reasonable attorneys' fees incurred in connection with making the motion.

Plaintiff cross-moves (Seq. 03) for an order, pursuant to CPLR §§ 2308 (b), 2215, and 5224 compelling Davidson to produce responsive documents to the subpoena duces tecum within three (3) days of this court's decision and order.

Nonparty Saadia Holding, LLC (Saadia Holding) moves (Seq. 04) for an order, (1) pursuant to CPLR § 3103 (a), quashing, or in the alternative modifying, a subpoena duces tecum served by White Oak upon Valley National Bank (VNB) and for a protective order, and (2) pursuant to 22 NYCRR § 130-1.1 (a) awarding sanctions and reasonable attorneys' fees incurred in connection with making the motion.

Plaintiff moves (Seq. 05) for an order, (1) pursuant to CPLR § 2308 (b), compelling defendant/judgment debtor Joseph Saadia (Saadia) to appear for his deposition within three (3) weeks of this court's decision and order, and (2) pursuant to CPLR § 2308 (b), granting plaintiff an award of damages and costs associated with bringing the motion.

Defendant debtors 501 Jersey Avenue LLC (501 LLC), Fame Fashion House LLC (Fame) and S3 Holding LLC (S3) (collectively, the "defendants") cross-move (Seq. 06) for an order, pursuant to CPLR § 3211 (a) (3), dismissing this action.

All of the motions are opposed to varying degrees.

### Procedural Background and the Parties' Submissions

On February 5, 2025, plaintiff filed a foreign judgment against defendants (entered by the Superior Court of New Jersey), along with supporting papers, to be domesticated in New York pursuant to CPLR § 5402. The judgment was signed by the Kings County Clerk and entered on February 10, 2025. By letter dated March 13, 2025, S3 and Fame, which occupied the commercial warehouse located at the property owned by 501 LLC, informed plaintiff that S3 and Fame were submitting payment for March and April rent in the amount of \$66,666.66 per month, and that such funds were “drawn from our account with TD Bank.” Scanned copies of the checks used to remit payment were enclosed with the letter, which appeared to be issued from the TD Bank account of Davidson. Plaintiff maintains that by remitting funds from an account held in Davidson’s name, S3 and Fame, which are jointly and severally liable under the judgment, acknowledged a financial interest in Davidson and its assets held at TD Bank.

On or about April 22, 2025, a subpoena duces tecum was served on TD Bank which directed production of the following:<sup>1</sup>

1. With respect to all Accounts, for the period starting on January 1, 2023 through the present, copies of all bank statements, deposits, withdrawals, checks, checks drawn, checks deposited, electronic fund transfers, and wires (including, but not limited to, Clearing House Interbank Payment System, Fedwire, SWIFT, or other wire/electronic payment system including Automated Clearing House transfers).

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<sup>1</sup> Similar subpoenas were served June 5, 2025 on Davidson (*See* NYSCEF Doc. No. 44) and August 1, 2025 on VNB (*See* NYSCEF Doc. No. 57).

2. All opening Account documents and agreements, including “know your customer” forms.
3. All Documents identifying the names of persons who own or are authorized users of the Account, or who have signature authority (including all signature cards) on the Accounts.
4. To the extent not provided in the response to the above request, all Documents and Communications sufficient to identify (by name, address, and account number) all banks or financial institutions at which Davidson 2005 LLC and the Judgment Debtors maintain or maintained any bank account.
5. For all Accounts, for the period from January 1, 2023 through the present, all Documents and Communications concerning transfers that Davidson 2005 LLC or the Judgment Debtors sent or received, including all deposits, withdrawals, electronic fund transfers, and wires (CHIPS, Fedwire, SWIFT, or other wire/electronic payment system). This request includes, but is not limited to, documents sufficient to identify:
  - a. The date of the transfer.
  - b. The name of the person who requested the transfer.
  - c. The transfer’s intended recipient, including the recipient’s name, financial institution, and account number.
  - d. Transfer request or approval forms.
  - e. The transfer’s funding source.
  - f. All other institutions involved in the transfer, including originating, intermediary, and receiving financial institutions.
6. All Documents concerning Davidson 2005 LLC’s or the Judgment Debtors’ financial condition, including, but not limited to, balance sheets, financial statements, tax returns, income statements, cash flow statements, loan applications, accounts receivable, inventory lists, mortgages, leases, payroll records, and UCC filings.

7. All Documents and Communications concerning currency transaction reports (CTRs) involving Davidson 2005 LLC or the Judgment Debtors, including Documents supporting or explaining the need to create a CTR.

8. All Documents and Communications concerning suspicious activity reports (SARs) involving Davidson 2005 LLC or the Judgment Debtors, including Documents supporting or explaining the need to create an SAR.

Similarly, on June 3, 2025, S3 and Fame sent a letter to plaintiff informing it that S3 and Fame were submitting payment for May, June, and July rent in the amount of \$66,666.66 per month, and that such funds were “drawn from our account with Valley Bank.” Scanned copies of the checks used to remit payment were enclosed with the letter, which appeared to be issued from the VNB account of Saadia Holding. Plaintiff maintains that by remitting funds from an account held in Saadia Holding’s name, S3 and Fame further acknowledged a financial interest in Saadia Holding and its assets at VNB. Consequently, an additional subpoena duces tecum was served on VNB seeking the same items of disclosure as the subpoena served on TD Bank and Davidson, except as to Saadia Holding rather than Davidson.

Davidson and Saadia Holding thereafter moved to quash the respective subpoenas, with plaintiff cross-moving to compel Davidson’s compliance therewith. Plaintiff further moved to compel the deposition of Saadia. Defendants cross-moved to dismiss this action under CPLR § 3211 (a) (3), on the ground that plaintiff is not licensed to do business in New York and therefore lacks capacity.

### Discussion

#### *Motion Seq. 06*

The Court will first address the dispositive motion of defendants for dismissal. Limited Liability Company Law [LLCL] § 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 unless and until such limited liability company shall have received a certificate of authority in this state.” Assuming that the foregoing statute is applicable to the instant CPLR § 5402 matter, and plaintiff is precluded thereby from enforcing its judgment without registering in this state, relevant case law regarding Business Corporation Law § 1312 (a), an analog of LLCL § 808 (a), holds that lack of a certificate of authority to do business in New York is not a jurisdictional defect, and a non-registered plaintiff is entitled to a reasonable opportunity to cure its noncompliance with the statute before dismissal should be considered (*Matter of Mobilevision Med. Imaging Servs., LLC v Sinai Diagnostic & Interventional Radiology, P.C.*, 66 AD3d 685, 686 [2d Dept 2009]; *Showcase Limousine v Carey*, 269 AD2d 133, 134 [1st Dept 2000], *mod* 273 AD2d 20 [2000]). Plaintiff has since demonstrated that it is registered with the Department of State to do business in New York, effective October 15, 2025 (NYSCEF Doc No 102).

Accordingly, defendants’ cross motion (Seq. 06) to dismiss this matter under CPLR § 3211 (a) (3) is denied.

### *The Motions to Quash*

Turning to the motions to quash, CPLR § 5223 allows a judgment creditor to “compel disclosure of all matter relevant to the satisfaction of the judgment,” and sets forth “a generous standard which permits the creditor a broad range of inquiry through either the judgment debtor or any third person with knowledge of the debtor's property” (*ICD Group v Israel Foreign Trade Co. [USA]*, 224 AD2d 293, 294 [1st Dept 1996]). “A judgment creditor is entitled to discovery from either the judgment debtor or a third party in order ‘to determine whether the judgment debtor[ ] concealed any assets or transferred any assets so as to defraud the judgment creditor or improperly prevented the collection of the underlying judgment’” (*Lisogor v Nature's Delight, Inc.*, 189 AD3d 1386, 1388 [2d Dept 2020], quoting *Young v Torelli*, 135 AD2d 813, 815 [2d Dept 1987]; see also *George v Victoria Albi, Inc.*, 148 AD3d 1119, 1119 [2d Dept 2017]). Judgment creditors may request documents from judgment debtors that might contain or reveal information about nonparty property, so long as the documents sought pertain to the judgment debtor’s assets (*Young v Torelli*, 135 AD2d 813, 815 [2d Dept 1987]).

When addressing a motion to quash a subpoena duces tecum, “[t]he standard to be applied is whether the requested information is utterly irrelevant to any proper inquiry” (*Ayubo v Eastman Kodak Co., Inc.*, 158 AD2d 641, 642 [2d Dept 1990] [citation and internal quotation marks omitted]). The burden of establishing that the requested records are utterly irrelevant is on the person being subpoenaed (*Gertz v Richards*, 233 AD2d 366, 366 [2d Dept 1996]). “[J]udgment creditors are entitled to broad disclosure in aid of judgment enforcement” and “[i]t is patent that, pursuant to CPLR 5223, all matter

relevant to the satisfaction of the judgment is discoverable and the public policy is to put no obstacle in the path of those seeking to enforce a judgment” (*U.S. Bank N.A. v APP Intl. Fin. Co.*, B.V., 100 AD3d 179, 183 [1st Dept 2012] [citations and internal quotation marks omitted]).

At the outset, the subpoenas are not, as defendants argue, rendered invalid on the ground that they were not served upon all defendants in this matter. CPLR § 2303 (a) provides that “[a] subpoena requiring attendance or a subpoena duces tecum shall be served in the same manner as a summons.” The same statute further provides that “[a] copy of any subpoena duces tecum served in a pending civil judicial proceeding shall also be served, in the manner set forth in rule twenty-one hundred three of this chapter, on each party who has appeared in the civil judicial proceeding so that it is received by such parties promptly after service on the witness and before the production of books, papers or other things.” However, unlike pre-trial disclosure or disclosure in a pending civil judicial proceeding, which specifically requires that a third-party subpoena be served on all parties, disclosure in a supplementary proceeding under CPLR §§ 5223 or 5224 has no such requirement (*Ateni Maritime Corp. v Great Mar.*, 225 AD2d 573, 573 [2d Dept 1996]; *see also Encalada v Cps1 Realty LP*, 2014 NY Slip Op 31475[U] [Sup Ct, NY County 2014]).

Davidson and Saadia Holding further argue, in essence, that the underlying judgment may be readily satisfied through foreclosure proceeds of the subject New Jersey property, or otherwise through the application of a “fair market value credit” against the debt, rendering the discovery sought by plaintiff with respect to their assets unnecessary

and overbroad. However, even if the fair market value of the subject property presently exceeds the judgment, there is no case law or other authority offered by defendants that post-judgment discovery as to defendants' assets is precluded under the circumstances.

The unpublished case from the Superior Court of New Jersey, Appellate Division (NYSCEF Doc No 21) relied on by defendants is inapposite. In that case, the court determined that final judgment should not have been entered against the guarantors of a mortgage debt prior to holding a foreclosure sale and a hearing to determine a fair market value credit. The New Jersey case did not address whether the equitable principle regarding a fair market value credit is applicable to or precludes a creditor's right to discovery under CPLR Article 52 to aid in enforcement of a judgment in New York. Further, even if defendants are entitled to the application of a fair market credit, until the property is sold and a fair market credit is actually applied at said time, whether or not the judgment will be rendered fully satisfied thereby remains in question.

Defendants do not otherwise establish entitlement to the quashing of the subpoenas or to a protective order. The payment checks made by S3 and Fame demonstrate a nexus between these debtors and Davidson and Saadia Holding, and thus there is a reasonable basis for plaintiff to inquire about the finances of these nonparties. Accordingly, it cannot be held that the information sought in the subpoenas regarding the assets held by Davidson and Saadia Holding and their respective accounts at TD Bank and VNB are "utterly irrelevant to any proper inquiry" or that the "futility of the process to uncover anything legitimate is inevitable or obvious" (*Kapon v Koch*, 23 NY3d 32, 34 [2014]). Accordingly, the motions to quash are denied, as detailed below.

*Plaintiff's Motion to Compel*

On the record before the Court, plaintiff's motion to compel the deposition of Saadia is granted. The Court notes that while Saadia opposed the motion, he has not moved for a protective order or sufficiently demonstrated that his testimony would be irrelevant or unnecessary to the enforcement of plaintiff's judgment. Further, Saadia has not shown, beyond his conclusory assertion, that plaintiff is seeking his deposition purely as a means of harassment.

**Conclusion**

Accordingly, it is hereby

**ORDERED**, that Davidson's motions (Seqs. 01 and 02) to quash the subpoena served on TD Bank and Davidson, for a protective order and for an award of sanctions and attorneys' fees, are denied in all respects; and it is further

**ORDERED**, that plaintiff's cross motion (Seq. 03) to compel Davidson's compliance with the subpoena, is granted; and it is further

**ORDERED**, that Saadia Holding's motion (Seq. 04) to quash the subpoena served on VNB, for a protective order, and for an award of sanctions and attorneys' fees, is denied in all respects; and it is further

**ORDERED**, that that part of plaintiff's motion (Seq. 05) to compel the deposition of Saadia, is granted; except that part of plaintiff's motion for an award of damages and costs is denied; and it is further

**ORDERED**, that defendants' motion (Seq. 06) to dismiss, is denied; and it is further

**ORDERED**, that Davidson shall produce responsive documents to the subpoena duces tecum within twenty (20) days from the date this order is uploaded to e-file; and it is further

**ORDERED**, that Saadia shall appear for a deposition on or before April 16, 2026. The parties shall cooperate in good faith to schedule an agreeable date and time for said deposition.

The court has reviewed all other contentions of defendants and finds them unavailing. All relief not expressly granted herein is denied.

The foregoing constitutes the decision and order of the Court.

E N T E R

  
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J.S.C.  
**HON. WAVNY TOUSSAINT**  
J.S.C.