

Wilmington Sav. Fund Socy., FSB v Shapiro
2026 NY Slip Op 31249(U)
March 30, 2026
Supreme Court, Nassau County
Docket Number: Index No. 618794/2024
Judge: Carolyn Mazzu Genovesi
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NASSAU COUNTY**

PRESENT: HON. CAROLYN MAZZU GENOVESI PART 35A

Acting Justice

-----X
INDEX NO. 618794/2024
WILMINGTON SAVINGS FUND SOCIETY, FSB, AS
TRUSTEE OF WV 2017-1 GRANTOR TRUST, _____

Plaintiff,

MOTION SEQ. NO. 001

- v -

SCOTT SHAPIRO, DEBRA SHAPIRO, NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE, UNITED
STATES OF AMERICA (EASTERN DISTRICT), JOHN DOE
AND JANE DOE

**DECISION + ORDER ON
MOTION**

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 36, 37, 38, 39, 40, 41, 42, 43, 44, 45

were read on this motion to/for DISCOVERY.

In an action to foreclose a mortgage, defendants Scott Shapiro and Debra Shapiro (“defendants”) move to compel discovery; and impose sanctions (MS # 1). Plaintiff opposes the motion.

Under CPLR 3101(a), “[t]here shall be full disclosure of all matter material and necessary in the prosecution or defense of an action...” However, “[a] motion to compel responses to discovery demands and interrogatories is properly denied where the demands and interrogatories seek information that is irrelevant, overly broad, or burdensome.” *JPMorgan Chase Bank, Nat. Ass'n v. Levenson*, 149 A.D.3d 1053, 1054 (2d Dep’t 2017).

In the present case, the mortgage; the note with an allonge; a copy of the RPAPL §1304 notice; and a copy of the RPAPL §1306 filing are already in the record. Nevertheless, defendants request, among other things, “[e]ach and every person that actually saw the note and/or notes and/or consolidated notes.” However, this information is irrelevant to defending this action. “There

is simply no requirement that an entity in possession of a negotiable instrument that has been endorsed in blank must establish how it came into possession of the instrument in order to be able to enforce it.” *JPMorgan Chase Bank, Nat. Ass'n v. Weinberger*, 142 A.D.3d 643, 645 (2d Dep’t 2016). “Moreover, it is unnecessary to give factual details of the delivery [of the instrument] in order to establish that possession was obtained prior to a particular date.” *Id.*

Defendants also demand plaintiff identify “[a]ny person who has reviewed mortgage payment records, any person who actually mailed the RPAPL §1304 notice and complied with the RPAPL §1306 compliance.” This information is also unnecessary. “A plaintiff demonstrates its compliance with the [RPAPL 1304] ‘by proof of the requisite mailing, which can be established [by] 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.’” *Wells Fargo Bank, N.A. v. Shields*, 201 A.D.3d 1007, 1008-1009 (2d Dep’t 2022) quoting *Citibank, N.A. v. Conti-Scheurer*, 172 A.D.3d 17, 21 (2d Dep’t 2019). “A proof of filing statement from the New York State Department of Financial Services is sufficient to establish, prima facie, that the plaintiff complied with RPAPL 1306.” *Ditech Servicing, LLC v. McFadden*, 217 A.D.3d 923, 927 (2d Dep’t 2023). Accordingly, the individual who personally processed these items is irrelevant.

The Court further finds that balance of the discovery requests is irrelevant and overbroad. Accordingly, it is

ORDERED that defendant's motion (MS # 1) is DENIED in all respects

This constitutes the Decision and Order of the Court.

ENTER

Date: 3/30/24


Hon. Carolyn Mazza Genovesi