

**Wells Fargo Bank N.A. v Wright**

2026 NY Slip Op 32056(U)

May 28, 2026

Civil Court of the City of New York, Queens County

Docket Number: Index No. L&T 315864/24

Judge: Clinton J. Guthrie

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This opinion is uncorrected and not selected for official publication.

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF QUEENS: HOUSING PART SPP

-----X  
WELLS FARGO BANK N.A., as Trustee, for  
CARRINGTON MORTGAGE LOAN TRUST,  
SERIES 2006-NC3 ASSET-BACKED  
PASS-THROUGH CERTIFICATES,  
Petitioner,

Index No. L&T 315864/24

-against-

**DECISION/ORDER**

DONOVAN ANTHONY WRIGHT a/k/a  
DONOVAN A. WRIGHT a/k/a DONOVAN  
WRIGHT, HENRY MURRAY, PAULETTE  
MURRAY, TRICIA MURRAY, TASHA  
MURRAY, JOSEPH JOHN, TANIYA KING,  
TYON KING, MARLON BEVANS, JOHN DOE  
#1-10, JANE DOE #1-10,  
Respondents.

-----X  
Present:

Hon. CLINTON J. GUTHRIE  
Judge, Housing Court

Recitation, as required by CPLR § 2219(a), of the papers considered in the review of petitioner’s motion to restore (seq. 1) and respondents’ cross-motion to dismiss (seq. 2):

<b>Papers</b>	<b>Numbered</b>
Notice of Motion & All Documents Annexed.....	<u>1 (NYSCEF #22-27)</u>
Notice of Cross-Motion & All Documents Annexed.....	<u>2 (NYSCEF #28-31)</u>
Affirmation in Opposition and Reply & Exhibit Annexed.....	<u>3 (NYSCEF #32-33)</u>
Affirmation in Reply & Exhibits Annexed.....	<u>4 (NYSCEF #35-38)</u>

Upon the foregoing cited papers, the decision and order on petitioner’s motion and respondents’ cross-motion, consolidated for determination herein, is as follows.

PROCEDURAL HISTORY

This summary “post-foreclosure” holdover proceeding was filed in October 2024.

Pursuant to an order issued in Index No. 726106/21 in Supreme Court, Queens County (“the

Supreme Court Action”) on December 4, 2024, a stay of this proceeding was granted (*see* NYSCEF Doc. 20). During the pendency of the stay, this court continued to adjourn the instant proceeding. On August 6, 2025, neither side appeared and the petition was dismissed upon petitioner’s default. Thereafter, in February 2026, petitioner moved to restore the proceeding. Respondents Paulette Murray and Henry Murray, represented by counsel, cross-moved to dismiss and opposed petitioner’s motion to restore. After further briefing, this court heard argument on both motions on May 22, 2026.

#### DISCUSSION/CONCLUSION

Petitioner moves to restore this case, arguing that its attorney inadvertently miscalendared the August 6, 2025 court date and that it is now entitled to proceed after respondents’ claims in Supreme Court were ultimately denied. Petitioner opposes restoration, primarily arguing that petitioner lacks standing to proceed herein. Generally, the vacatur of an order rendered on a party’s default is governed by CPLR § 5015(a)(1), which requires a party to establish a reasonable excuse for failing to appear and a potentially meritorious claim or defense (*see Deutsche Bank Nat. Trust Co. v Luden*, 91 AD3d 701 [2d Dept 2012]; *Pursoo v Ngala-El*, 89 AD3d 712 [2d Dept 2011]; *Parker v City of New York*, 272 AD2d 310 [2d Dept 2000]). Here, the court finds that an isolated instance of law-office failure that was not part of a recurring pattern is a reasonable excuse for failing to appear (*cf. Rudsky v Schechtman*, 219 AD3d 1453 [2d Dept 2023]). Moreover, the court finds the “default” to have been de minimis, since the Supreme Court stay was still in effect at the time of the August 6, 2025 court date.<sup>1</sup> Petitioner

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<sup>1</sup> Taking judicial notice of the court file in Supreme Court Index No. 726106/21, the stay was vacated in a Decision/Order of Justice Mojgan C. Lancman dated September 10, 2025 (*see* NYSCEF Doc. 81 on Index No. 726106/21 [Sup Ct, Queens County]).

also sets forth a meritorious claim by way of an order dated November 20, 2025 in the Supreme Court Action denying respondent Paulette Murray's motion to intervene in and dismiss the foreclosure action that ultimately led to the sale of the subject property at issue to petitioner (*see* NYSCEF Doc. 26). Accordingly, petitioner's motion is granted, the dismissal is vacated, and the instant proceeding will be restored to this court's calendar for all purposes.

Turning to respondents' cross-motion to dismiss, the court does not find respondents have demonstrated that petitioner lacks standing or a cause of action herein. The holder of a deed delivered pursuant to a foreclosure sale may commence a summary proceeding pursuant to RPAPL § 713(5) (*see Castle Peak 2012-1 REO, LLC v New York Found. for Senior Citizens*, 63 Misc 3d 157[A], 2019 NY Slip Op 50834[U] [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2019]; *Plotch v Dellis*, 60 Misc 3d 1 [App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2018]). Additionally, RPAPL § 721(3) states that a "purchaser upon the execution or foreclosure sale" may maintain a summary proceeding. Petitioner adequately states in the petition that petitioner obtained title via a referee's deed delivered after a foreclosure sale and annexes copies of the judgment of foreclosure and attorney-certified deed to corroborate the allegations (*see Watts v City of New York*, 186 AD3d 1577, 1578 [2d Dept 2020] [On a motion to dismiss for failure to state a cause of action, "the complaint [petition] is to be afforded a liberal construction, the facts alleged are presumed to be true, the plaintiff [petitioner] is afforded the benefit of every favorable inference, and the court is to determine only whether the facts as alleged fit within any cognizable legal theory[.]").

Nor does the court find that respondents have established that petitioner lacks standing as a result of a judgment and order dated September 12, 2023 and issued in a Queens County

Supreme Court action, Index No. 705773/19, whereby a deed for the subject property granted to Donovan Anthony Wright a/k/a Donovan A. Wright a/k/a Donovan Wright in 2006 was deemed to be void and unenforceable. While a challenge to title of the subject property may be an equitable defense in this summary proceeding (see *Nissequogue Boat Club v State of New York*, 14 AD3d 542 [2d Dept 2005]), the court does not find that petitioner’s standing or the cause of action upon which it proceeds are defeated as a result of the order and judgment declaring the 2006 deed to be void. This determination is bolstered by the order dated November 20, 2025 in the Supreme Court Action (Index No. 726106/21) denying Paulette Henry’s motion to intervene therein, notwithstanding the preexistence of the order declaring the 2006 deed to be void. For each of these reasons, respondents’ cross-motion to dismiss is denied.

The parties’ respective motions are disposed according to the determinations made herein. Pursuant to CPLR § 404(a), respondents shall be entitled to interpose an answer no later than June 17, 2026. The proceeding will be restored for all purposes, including trial transfer, on June 26, 2026 at 9:30 AM.

This Decision/Order will be filed to NYSCEF.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

Dated: Queens, New York  
May 28, 2026

APPROVED  
CGUTHRIE, 5/28/2026, 4:36:14 PM

HON. CLINTON J. GUTHRIE, J.H.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	
MOTION SEQ. #: 1	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	GRANTED IN PART
MOTION SEQ. #: 2	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED	<input type="checkbox"/>	GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	STAY CASE
NOTES	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE