

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FIRST DEPARTMENT

Schnur v. Balestriere

Schnur, 2026 NY Slip Op 03410 (Appellate Division of the Supreme Court of the State of New York First Department 2026) · No. Index No. 160095/18; Appeal No. 6792; Case No. 2025-01792 · Decided June 2, 2026

SUMMARY

The Appellate Division, First Department, unanimously affirmed an order denying the Saland defendants’ motion to vacate the note of issue and obtain additional discovery. The court also affirmed denial of the plaintiffs’ renewed motion for sanctions, holding that the cited evidence should be addressed through the claims and dispositive motions or trial rather than sanctions proceedings. The court further declined to consider an argument raised for the first time on appeal.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Manzanet-Daniels, J.P.; Kennedy, J.; Mendez, J.; Michael, J.; Hagler, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	June 2, 2026
DOCKET	Index No. 160095/18; Appeal No. 6792; Case No. 2025-01792
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of Supreme Court, New York County, denying the Saland defendants' motion to vacate the note of issue and obtain additional discovery, and denying plaintiffs' cross-motion to renew their prior motion for sanctions.
STANDARD OF REVIEW	Abuse of discretion; the court reviewed whether Supreme Court providently exercised its discretion in denying the discovery and sanctions motions.
PRECEDENTIAL VALUE	Published

PARTIES

Yifat V. Schnur et al., Plaintiffs-Appellants-Respondents, Jeremy Saland et al., Defendants-Respondents-Appellants v. John Balestriere et al., Defendants, Jeremy Saland et al., Defendants-Respondents-Appellants, Yifat V. Schnur et al., Plaintiffs-Appellants-Respondents

TOPICS

discovery dispute

sanctions

motion for reconsideration

appellate procedure

civil procedure

PRACTICE AREAS

Civil procedure

Appellate procedure

Discovery

Sanctions

QUESTIONS PRESENTED

1. Whether Supreme Court providently exercised its discretion in denying the Saland defendants' motion to vacate the note of issue and obtain additional discovery, including plaintiffs' tax returns.
2. Whether the appellate court could consider the Saland defendants' argument that a continued deposition was necessary because post-note-of-issue production allegedly undermined plaintiff's assertion of attorney-client privilege.
3. Whether Supreme Court providently exercised its discretion in denying plaintiffs' motion to renew their sanctions motion based on newly produced evidence concerning the Saland defendants' alleged involvement in the federal action.

HOLDINGS

1. Supreme Court properly exercised its discretion in denying the Saland defendants' motion to vacate the note of issue and obtain additional discovery because they failed to make the necessary showing for production of plaintiffs' tax returns and had already deposed plaintiff concerning damages and income.
2. The argument was not properly before the Appellate Division because it was raised for the first time on appeal and had not been presented to the motion court.
3. Supreme Court properly exercised its discretion in denying plaintiffs' motion to renew their prior sanctions motion because the newly produced documents supplied only some evidence of possible misconduct, while the factual issues were more appropriately resolved at trial or on motions for summary judgment.

KEY QUOTATIONS

“A determination of the factual issues underlying these claims should be made by the factfinder at trial or upon motions for summary judgment, not in the context of a sanctions motion.” ([*1])

FACTUAL BACKGROUND

The Saland defendants sought to vacate the note of issue and obtain additional discovery, including plaintiffs' tax returns from 2011 through the present. Plaintiff had already been deposed, and the Saland defendants had an

opportunity to question her about the basis for her damages claim and her income. Plaintiffs sought renewed sanctions based on documents suggesting that the Saland defendants may have been co-counsel to the Balestriere defendants in a federal action and that Jeremy Saland may have assisted in drafting the federal complaint; meanwhile, Supreme Court had permitted plaintiffs to amend their complaint, reinstate a libel claim, and assert a malicious-prosecution claim.

PROCEDURAL HISTORY

Supreme Court denied the Saland defendants' request to vacate the note of issue and obtain additional discovery, including plaintiffs' tax returns, and denied plaintiffs' renewed sanctions motion. The Appellate Division unanimously affirmed the order insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Lee v. Chun Ka Luk, 132 A.D.3d 515, 516 (1st Dep't 2015), leave dismissed, 27 N.Y.3d 975 (2016)

OPINION

Schnur v. Balestriere 2026 NY Slip Op 03410

PER CURIAM.

Schnur v Balestriere - 2026 NY Slip Op 03410 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Schnur v Balestriere 2026 NY Slip Op 03410 June 2, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. Yifat V. Schnur et al., Plaintiffs-Appellants-Respondents, v John Balestriere et al., Defendants, Jeremy Saland et al., Defendants-Respondents-Appellants Decided and Entered: June 02, 2026 Index No. 160095/18|Appeal No. 6792|Case No. 2025-01792| Before: Manzanet-Daniels, J.P., Kennedy, Mendez, Michael, Hagler, JJ. Sheppard, Mullin, Richter & Hampton LLP, New York (Jessica N. Meyers of counsel), for appellants-respondents. Furman Kornfeld & Brennan LLP, New York (Rachel Aghassi of counsel), for respondents-appellants. [*1] Order, Supreme Court, New York County (Verna L. Saunders, J.), entered February 25, 2025, which, to the extent appealed from, denied the motion of defendants Jeremy Saland and Crotty Saland P.C. (collectively, Saland defendants) to vacate the note of issue and for additional discovery, and denied plaintiffs' cross-motion to renew their prior motion for sanctions against the Saland defendants, unanimously affirmed, without costs. The court providently exercised its discretion in denying the Saland defendants' motion to vacate the note of issue. The Saland defendants did not make the necessary

showing for production of plaintiffs' tax returns from 2011 to the present (see *Lee v Chun Ka Luk*, 132 AD3d 515, 516 [1st Dept 2015], lv dismissed 27 NY3d 975 [2016]). Moreover, they admitted that plaintiff had been deposed; at that time, they could have questioned her regarding the basis for her damages claim and her income. For the first time on appeal the Saland defendants assert that a continued deposition of plaintiff is necessary because her post-note of issue document production demonstrated that the attorney-client privilege she asserted at her deposition was not warranted. This issue was not raised before the motion court and is therefore not properly before this Court. The court providently exercised its discretion in declining to grant plaintiffs' motion to renew their motion for sanctions. Plaintiffs sought to strike the Saland defendants' answer or, in the alternative, preclude them from offering any argument that they were not responsible for the conduct of their codefendants (the Balestriere defendants) in connection with a federal action. The documents cited by plaintiffs that were produced after their prior sanctions motion provide some evidence that the Saland defendants may have been co-counsel to the Balestriere defendants in the federal action and that Jeremy Saland may have assisted in the drafting of the federal complaint. When this evidence came to light, however, the court permitted plaintiffs to amend the complaint, reinstate their libel claim, and assert a new claim for malicious prosecution. A determination of the factual issues underlying these claims should be made by the factfinder at trial or upon motions for summary judgment, not in the context of a sanctions motion. Since this is the only misconduct cited by plaintiffs, denial of the renewed request for sanctions was appropriate. We have considered the parties' remaining arguments and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: June 2, 2026

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