
<i>U.S. Bank National Association</i> v. <i>Greenpoint Mortgage Funding, Inc.</i>: First Department Holds That Producing Party Is Responsible for Cost of Production

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On February 28, 2012, the New York State Supreme Court, Appellate Division for the First Department issued a decision in *U.S. Bank National Association v. GreenPoint Mortgage Funding, Inc.*, adopting standards generally governing electronic discovery in federal court - i.e., the general rule articulated in *Zubulake v. UBS Warburg LLC* that the producing party is to bear the cost of searching for, retrieving and producing documents - including electronically stored information ("ESI") - in response to discovery requests. Consistent with the *Zubulake* opinion, the court also permitted the shifting of costs between the parties at the trial court's discretion, upon proper motion by the producing party.

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