STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1980

Shamrock Sod & Landscaping, Inc., et al.,
Appellants,

vs.

Security State Bank of Fergus Falls,
Respondent,

John Leonard Blume,
Respondent,

Paul Stephen Lindholm,
Respondent.

Filed September 9, 2019
Affirmed
Ross, Judge

Douglas County District Court
File No. 21-CV-15-657

Jane L. Volz, Volz Law Firm, Ltd., Lakeville, Minnesota; (for appellants)

Matthew C. Berger, Christopher E. Bowler, Gislason and Hunter LLP, New Ulm, Minnesota (for respondent Security State Bank)

Robert G. Manly, Jordan B. Weir, Matthew W. Sorenson, Vogel Law Firm, Fargo, North Dakota (for respondent Blume)

Kevin K. Stroup, Barry R. Gronke, Jr., Stoneberg, Giles & Stroup, P.A., Marshall, Minnesota (for respondent Lindholm)

Considered and decided by Bratvold, Presiding Judge; Ross, Judge; and Larkin, Judge.

U N P U B L I S H E D O P I N I O N

ROSS, Judge

A married couple acting in their personal capacities and also on behalf of their closely held businesses obtained more than a dozen personally guaranteed loans totaling about $1.8 million from Security State Bank, secured by real-estate mortgages, vehicles, and the companies' inventory, equipment, and financial accounts, among other things. The couple defaulted on many of the loans, and the bank began exercising its remedial setoff rights to apply funds from the couple's bank accounts to mitigate the defaults. The couple and their businesses sued the bank and its principals on numerous legal theories in a 16-count civil complaint, alleging various forms of contract and fiduciary-duty breaches as well as fraud, tort, and equitable violations. The bank answered, asserting counterclaims identifying nine outstanding loans with balances totaling about $1.6 million, alleging that the plaintiffs breached the operative promissory notes and personal guarantees, and asserting the bank's right to foreclose the mortgages and dispose of the other collateral securing the loans. After substantial litigation, the couple now appeals from many district court orders: an order denying their motion to amend their complaint to claim punitive damages, to add an additional fraud claim, and to add another party to the litigation; three orders granting summary judgment in favor of the bank and its principals on the couple's claims of fraudulent nondisclosure, conversion and civil theft, breach of fiduciary duty, intentional infliction of emotional distress, fraud, breach of contract, and breach of the covenant of good faith and fair dealing; two orders granting summary judgment to the bank on its counterclaims of breach of promissory notes and enforcement of security

agreements; and an order amending the dispositive-motion deadline and allowing the bank to foreclose on a mortgage despite the bank's failure to give the couple a statutorily required homestead-designation notice. The bank cross-appeals, arguing that the district court erred by imposing sanctions on it for failing to comply with the district court's order compelling discovery. We affirm all the challenged decisions.

FACTS

The following facts are either not disputed or are disputed but construed in favor of the appellants, against whom the district court entered summary judgment.

Married couple Terry and Vickie O'Brien opened a checking account at Security State Bank of Fergus Falls in 2003 for their snowplowing business, Shamrock Sod & Landscaping, Inc. They also obtained two loans, secured by mortgages on two properties, to refinance existing debt. Over the next six years, the O'Briens incurred overdrafts on Shamrock's checking account and received additional loans from the bank, accumulating a debt of $1,550,970 by the end of 2008.

The O'Briens refinanced their debt in December 2009 by obtaining six new loans from the bank to extinguish their seven extant loans and to make cash advances to Shamrock. The O'Briens cannot remember whether they signed the loan documents. Records suggest that in November 2010, the O'Briens' dock-installation business, Custom Boardwalks Corporation, entered into a commercial security agreement with the bank to secure Shamrock's debts. Although Terry O'Brien denies signing the agreement, he acknowledges that the signature on the agreement "appears to be" his.

Through 2012, bank president John Blume was the O'Briens' primary contact with the bank. In December 2012, Paul Stephen Lindholm and his holding company, Independent Bancshares, purchased the bank. Lindholm became the bank's chief executive officer and began working with the O'Briens. The loans were already in default. Acting on behalf of the bank, Lindholm took efforts to collect or restructure the debt, including negotiating with customers of the defaulting businesses and occasionally converting deposited funds into cashier's checks to cover debt or fund the businesses' operating expenses.

In April 2015 the O'Briens and their companies sued the bank, Blume, and Lindholm. They alleged that the bank's extensive involvement in the businesses' operations was improper and that, through deceit, theft, and manipulation, the bank had refused to allow the O'Briens to pay the debts owed to the bank despite having generated the income to do so. In short, they blamed the bank for their default. Their 16-count civil complaint rested on numerous legal theories, including various forms of contract and fiduciary-duty breaches as well as fraud, tort, and equitable violations. The bank answered with counterclaims identifying nine defaulted loans of about $1.6 million and seeking to judicially foreclose the mortgages securing the loans and to authorize the disposal of all other collateral.

The O'Briens asked for expedited discovery, which the district court granted in part, ordering the bank to provide, among other things,

> i. an Excel spreadsheet, in native format, of all transactions involving [Shamrock's] checking

account(s) with [the bank] from October 6, 2003, to the present;

ii. copies of all cashier's checks written on [Shamrock's] bank account with [the bank] from January 2008 to the present; and

iii. a written explanation . . . for all unknown debits from [Shamrock's] checking account in amounts over $1,000.

The bank failed to produce the ordered discovery, resulting in a sanctions order compelling the bank to provide the documents and to pay the O'Briens $1,500. The district court appointed a special master to investigate the O'Briens' financial claims by performing a forensic accounting of Shamrock's checking account, the loans issued by the bank to the O'Briens and their businesses, and the funds received by the bank from the O'Briens.

The O'Briens moved to amend their complaint in December 2015 to add claims of fraud and fraudulent inducement as well as breach of contract, to join an additional bank employee (Suzanne Tysdal), and to include a claim of punitive damages. The district court granted the O'Briens' motion with respect to their breach-of-contract claim against Blume, and it otherwise denied the motion.

The district court received the special master's report in April 2016, and Lindholm moved for complete summary judgment. The district court granted the motion, dismissing all claims against Lindholm. In December 2016 the bank moved for summary judgment on all claims against it and for summary judgment on its counterclaims for breach of two of the promissory notes and for disposition of the related collateral. Blume also moved for summary judgment on all of the O'Briens' claims. The O'Briens sought and received

additional time to respond to the bank's and Blume's motions, but then they filed no response to either.

The O'Briens filed for chapter 11 bankruptcy in January 2017, automatically staying the state litigation under 11 U.S.C. § 362 (2017), before the district court could decide the pending summary-judgment motions. The bankruptcy court dismissed the O'Briens' bankruptcy petition in November 2017, and the district court granted the two unopposed summary-judgment motions on all issues except for the O'Briens' breach-of-contract claim against Blume.

What remained of the case was set for trial. At a pretrial hearing, the O'Briens discussed their intent to raise affirmative defenses, and the district court continued the trial to allow the parties to submit additional briefing and motions on the potential affirmative defenses. The bank then moved for summary judgment on its remaining counterclaims against the O'Briens and for judicial foreclosure on the mortgaged properties. The O'Briens contested the motion as untimely and on the theory that genuine issues of material fact precluded summary judgment. The district court granted the bank's motions, and the O'Briens, Blume, and the bank stipulated to dismiss all remaining claims between them. The district court entered final judgment.

The O'Briens and their companies appeal. The bank cross-appeals.

D E C I S I O N

The O'Briens raise four arguments on appeal. They argue first that the district court erred by denying their motion to amend their complaint to add a claim for punitive damages and another claim of fraud against the respondents, and to add bank employee Tysdal to

the litigation. They argue second that the district court erred by granting summary judgment dismissing their claims of fraudulent nondisclosure, fraud, theft and conversion, breach of fiduciary duty, and intentional infliction of emotional distress, and by granting summary judgment in favor of the bank on its claims for breach of contract and claim and delivery. The O'Briens argue third that the district court erred by allowing the bank to file a second motion for summary judgment after the dispositive-motion deadline had passed. And they argue fourth that the district court erroneously allowed the bank to foreclose on their property without providing them a homestead-designation notice required by Minnesota Statutes, section 582.041 (2018). The bank argues in support of its cross-appeal that the district court abused its discretion by sanctioning it for failing to comply with a discovery order. For the reasons that follow, we conclude that none of the arguments warrants reversal.

I

The O'Briens maintain that the district court improperly denied their motion to amend their complaint to allege punitive damages, to add a claim for fraud against all three respondents, and to join Tysdal in the litigation. We review the district court's decision to deny a motion to amend a complaint for abuse of discretion. *Bjerke v. Johnson*, 727 N.W.2d 183, 196 (Minn. App. 2007), *aff'd*, 742 N.W.2d 660 (Minn. 2007).

We are not persuaded by the O'Briens' contention about punitive damages. To add a claim for punitive damages, a party must proffer clear and convincing evidence that the opposing party "showed deliberate disregard for the rights or safety of others." Minn. Stat. § 549.20, subd. 1 (2018); *Bjerke*, 727 N.W.2d at 196. The O'Briens supported their motion

to add the punitive-damages claim with various accusations of fraudulent actions, financial manipulation, and outright theft by the bank through its principals. The district court concluded that the O'Briens failed to establish a prima facie case identifying facts that, if proved, would justify an award of punitive damages. But it also announced that they were not precluded from renewing the motion if the special master's report included findings that supported punitive damages. The O'Briens never renewed their motion after receiving the report, which contradicted their financial claims. On appeal they do not identify any of the evidence proffered by them to the district court that would undermine its conclusion that they failed to present evidence supporting punitive damages, nor do they cite evidence challenging the special master's findings refuting their claims. They resort instead to general characterizations of alleged wrongdoing. This does not lead us to see any abuse of discretion.

We are likewise unpersuaded by the O'Briens' contention that the district court improperly denied their motion to add another claim of fraud against the bank and its principals. Parties may amend their pleadings with leave of the court, and leave should be given freely "when justice so requires." Minn. R. Civ. P. 15.01. But a claim of fraud must be presented with particularity, and the district court does not abuse its discretion when it denies a motion to amend if the claim cannot be maintained. *See* Minn. R. Civ. P. 9.02; *Schumacher v. Schumacher*, 627 N.W.2d 725, 730 (Minn. App. 2001).

The O'Briens did not identify evidence of fraud clearly enough to support their argument that the district court abused its discretion by refusing to allow the amendment. To establish a claim for fraud, the O'Briens had to establish that one of the respondents

made a false representation of material fact, that this misrepresentation was made knowing of its falsity or made without knowing if it was true or false and with the intent to induce action based on the information, that the O'Briens acted relying on that representation, and that they incurred damages as a result. *U.S. Bank N.A. v. Cold Spring Granite Co.*, 802 N.W.2d 363, 373 (Minn. 2011). On appeal, the O'Briens identify no allegedly misrepresentative statement made by anyone. They instead assert that the respondents "manipulat[ed]" collateral pledged for several promissory notes by applying it to another, and they say that, by doing so, the respondents falsely "represented they had the right to change the collateral pledged for these notes." In this fashion the O'Briens attempt to replace the misrepresentation element with a misdeed element. They cite no authority supporting this approach to a fraud claim. And even if they could demonstrate that the bankers' alleged bad conduct is a valid substitute for a misrepresentative statement in a fraud claim, they do not explain how they relied on the alleged "misrepresentation" to their injury. They fail to show that the district court abused its discretion.

The O'Briens offer no legal or logical explanation supporting their declaration that the district court abused its discretion by refusing to allow their amendment to join Tysdal as a defendant. In fact, the conclusory declaration appears only in a heading of their brief but not in the argument. We decline to reach issues inadequately briefed. *See State, Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997). The O'Briens offer no basis on which we can consider whether the district court abused its discretion by denying their motion to join Tysdal.

II

The O'Briens challenge the district court's summary-judgment decisions. We review the district court's grant of summary judgment to determine if there are genuine issues of material fact and if the district court erroneously applied the law. *Hunt v. IBM Mid Am. Emps. Fed. Credit Union*, 384 N.W.2d 853, 855 (Minn. 1986).

Unopposed Summary Judgment Motions

We need not consider the substance of the O'Briens' arguments challenging the summary-judgment orders following Blume's and the bank's initial motions for summary judgment. To successfully oppose a motion for summary judgment, the nonmoving party must identify evidence that establishes a genuine issue of material fact for trial. *Hunt*, 384 N.W.2d at 855. The O'Briens filed no response to Blume's and the bank's initial motions for summary judgment. These motions rested on the assertion that no genuine issues of material fact exist regarding the O'Briens' claims of breach of fiduciary duty, fraudulent nondisclosure, civil theft, fraud, and intentional infliction of emotional distress as to the bank and Blume; and breach of contract and breach of the covenant of good faith and fair dealing as to the bank. The bank's motion also rested on its assertion that no issue of material fact prevented summary judgment on its own claims of breaches of contract as to the two 2003 promissory notes. Resolving these motions in the face of the O'Briens' failure to oppose them, the district court had no duty "to plumb the record in order to find a genuine issue of material fact." *Barge v. Anheuser-Busch, Inc.*, 87 F.3d 256, 260 (8th Cir. 1996). Although the district court discussed the merits of the motions in detail, we need not do so, because we can affirm summary judgment on any ground, even one the district

court did not depend on. *Doe 76C v. Archdiocese of St. Paul*, 817 N.W.2d 150, 163 (Minn. 2012). Given the O'Briens' (and their businesses') failure to respond to these summary-judgment motions, we affirm the district court's grant of summary judgment in the bank's and Blume's favor as to all issues raised in those motions. This holding disposes of all the O'Briens', Shamrock's, and Custom Boardwalks' claims against Blume and the bank, leaving only the following claims: the O'Briens', Shamrock's, and Custom Boardwalks' claims against Lindholm for breach of fiduciary duty, fraudulent nondisclosure, civil theft, and intentional infliction of emotional distress; the bank's counterclaims against the O'Briens for breach of the December 2009 promissory notes, and the bank's claim for claim and delivery of collateral under the security agreement with Custom Boardwalks.

Summary Judgment against Lindholm

The district court granted summary judgment dismissing all of the O'Briens' and Shamrock's claims against Lindholm, and the O'Briens challenge that decision only as to their claims of breach of fiduciary duty, fraudulent nondisclosure, civil theft, and intentional infliction of emotional distress. They identify no reason to reverse.

The district court properly rejected the breach-of-fiduciary-duty claim against Lindholm for the lack of evidence establishing a fiduciary duty. A fiduciary duty exists when one party places confidence and trust in the other party. *Kennedy v. Flo-Tronics, Inc.*, 143 N.W.2d 827, 830 (Minn. 1966). Fiduciary relationships do not typically exist in a banking relationship unless the bank "knows or has reason to know that the customer is placing his trust and confidence in the bank and is relying on the bank so to counsel and

inform him." *Klein v. First Edina Nat'l Bank*, 196 N.W.2d 619, 623 (Minn. 1972). The O'Briens offered insufficient evidence of this sort of relationship. They presented ample evidence showing their close personal and professional relationship with Blume. But Terry O'Brien conceded that their close relationship with the bank "definitely ended when [the O'Briens] started dealing with Steve Lindholm." The special master observed, without dispute, that Lindholm became involved with the O'Briens only after he purchased the bank and that his primary involvement with the O'Briens was "resolv[ing] open issues" with their outstanding debts. The evidence presented by the O'Briens did not suggest that the O'Briens interacted with Lindholm in any way other than as a bank employee managing the already-defaulted loans. This defeats their fiduciary-duty claim.

This fiduciary-duty holding also defeats the claim of fraudulent nondisclosure. This claim requires proof that a person suppressed facts material to a transaction that he was legally or equitably obligated to communicate to the injured party. *Graphic Comms. Local 1B Health & Welfare Fund A v. CVS Caremark Corp.*, 850 N.W.2d 682, 695 (Minn. 2014). In other words, the claim stands if a confidential or fiduciary relationship exists between the parties. *Id.* The lack of evidence of this kind of relationship or circumstance requiring disclosure precludes the fraudulent-nondisclosure claim against Lindholm.

The O'Briens' claim of civil theft against Lindholm likewise lacks sufficient factual support. Liability for civil theft is established by statute and occurs when a person steals the personal property of another. Minn. Stat. § 604.14, subd. 1 (2018). The O'Briens' claim rests on their theory that the bank, under Lindholm's direction, made withdrawals from the O'Briens' accounts without their consent. Lindholm does not dispute the assertion that the

bank, under his authority, accessed the cited accounts. He argues that the bank had the right by contract and equity to setoffs because the O'Briens and their businesses had defaulted on their loans. *See* Minn. Stat. § 336.9-601(a) (2018) (confirming that secured parties have the remedial default rights provided for in their agreements). The district court determined from the undisputed facts that the loan documents established the bank's remedies in the event of default, including the right to the disputed setoffs. The O'Briens do not dispute the bank's right to setoffs for defaulted loans but argue that the bank misapplied its setoff rights through misallocation—removing assets from accounts not associated with specific promissory notes to which they purported to apply the setoffs without proper notice or consent.

The district court looked to the special master's report after the extensive forensic investigation to evaluate the O'Briens' claim of theft. The district court saw no facts to support the claim, concluding that, "[a]lthough some transactions were poorly documented, the Special Master was unable to identify any Shamrock customer deposits, loan proceeds, cash disbursements, or loan payments that were not accounted for." The funds in the cited accounts "were accounted for and either deposited into Plaintiffs' checking account, applied to outstanding debts, or used to pay Shamrock's operating expenses." As to the O'Briens' claim that the bank was the actual cause of their many overdrafts, the district court relied on the report's revelation that, "except in a few instances, the overdrafts were not caused by the Bank, but by Shamrock's expenditures being greater than its cash receipts." As for the O'Briens' assertion that the bank acted without express consent, the district court accurately recognized that, "[w]hile the Security Agreements do provide for

notice and opportunity to cure, the Promissory Notes which provide for the setoff remedy do not." The O'Briens identify no evidence creating a fact dispute on their claim of civil theft by Lindholm.

The O'Briens offer no real argument challenging the district court's grant of summary judgment on their claim of intentional infliction of emotional distress against Lindholm. After listing the legal elements necessary to sustain the claim, their entire contention on appeal is a single sentence: "Defendants' conduct here is egregious." Egregiousness is not an element of the claim. And the O'Briens do not say what the supposed egregious conduct is. More importantly, they do not attempt to link the elements of the claim with any particular evidence. Because they offer no argument, we provide no further analysis.

Summary Judgment Favoring Bank as to Counterclaims

The O'Briens argue that the district court erred by granting summary judgment favoring the bank on its counterclaims for breach of promissory notes and enforcement of the commercial security agreement with Custom Boardwalks. We first address the O'Briens' contention that the district court should never have considered the motion because doing so amended the deadline for dispositive motions so as to allow the bank to move for summary judgment on its counterclaims long after the dispositive-motion deadline. The district court has great discretion to modify the procedural calendar of a case. *Rice v. Perl*, 320 N.W.2d 407, 412 (Minn. 1982). We see no abuse of discretion here.

The O'Briens contend that the district court should not have considered the summary-judgment motion because, by the time the bank presented it, the O'Briens had

already prepared fully for trial. But their preparation for trial means that any disputed material facts would have been at their disposal for citation against summary judgment. They assert that they were prejudiced by the decision because allowing the late motion for summary judgment meant that they would have to wait through an appeal before having the chance to present their claims to a jury. The assertion is implausible. The O'Briens' claims were not at issue; the district court had already granted the bank's first summary-judgment motion dismissing all claims against it, and the bank continued in the litigation only to pursue its remaining counterclaims. And in any event, delaying a trial to identify the issues for which no trial is necessary is not the sort of delay that, without more, can reasonably be called prejudicial.

The O'Briens cite *Cotroneo v. Pilney*, 343 N.W.2d 645, 648 (Minn. 1984), to support their contention that the district court should not have considered the bank's motion but instead stuck to the pretrial schedule. Their reliance on *Cotroneo* is misplaced. The *Cotroneo* court reasoned that, "[u]nder the special circumstances of [that] case, the trial court should have granted a continuance to allow both parties additional time to prepare" for trial rather than entering summary judgment against the plaintiff for her lack of evidence. 343 N.W.2d at 650. That case involved a late, unforeseen and unforeseeable, "eve of trial" refusal by the plaintiff's expert witness to testify at trial followed by the district court's decision not to amend the pretrial schedule with a reasonable continuance so the plaintiff could respond to the unforeseen circumstance by securing a different expert. *Id.* By contrast, the district court here allowed additional time for briefing of summary judgment, there was no suggestion that the O'Briens needed more time to respond to any

summary-judgment issues, and the record reveals no reason to subject the parties and witnesses to a trial if no disputed trial issues exist. The district court did not abuse its discretion by entertaining the bank's summary-judgment motion. We turn to the merits of the summary-judgment decision.

The O'Briens contend that there is a genuine issue of material fact as to whether the 2009 notes refinancing their debts were valid. The district court rejected the contention because the O'Briens abandoned their position that they did not sign the documents, contending instead that they were "not sure what happened." It reasoned that their failure to recall could not withstand the "overwhelming evidence that they did sign the documents and reap the benefit of those transactions." That a party is unsure about the signing of loan documents that bear his signature and that began a loan that his accounts show he received is not evidence that creates a triable issue as to whether he signed the documents. A metaphysical doubt as to material facts is not enough to prevent summary judgment. *St. Paul Fire & Marine Ins. Co. v. Metro. Urology Clinic, P.A.*, 537 N.W.2d 297, 300 (Minn. App. 1995) (observing that an agent's statement that he could not recall whether a telephone call was made was not enough to create a genuine issue of material fact as to the occurrence). The O'Briens' alleged lack of memory as to whether they signed the 2009 documents is not evidence that can withstand summary judgment against them in the face of the evidence that in fact they signed the documents.

The O'Briens also maintain that the district court should have denied summary judgment so they could have proved their affirmative defenses. They identify no

affirmative defenses in particular, offer no rationale for their assertion, and provide no citation to authority. We reject the unsupported theory.

III

The O'Briens argue last that the district court erred by directing foreclosure on one of the properties without the bank's notifying them of their right to designate the property as a homestead. They contend that their having maintained a double-wide mobile home on one of the properties triggered their homestead rights, and the bank does not dispute their contention. "If a mortgage on real property is foreclosed and the property contains a portion of a homestead, the person in possession of the real property must be notified by the foreclosing mortgagee that the homestead may be sold and redeemed separately from the remaining property." Minn. Stat. § 582.041, subd. 1 (2018). The notice "must be served with the foreclosure notice." *Id.*, subd. 2(a) (2018). After receiving the notice, "[t]he person who is homesteading the property must designate a legal description of the homestead property to be sold separately." *Id.*, subd. 3 (2018).

Without dispute, the bank failed to give the O'Briens notice of their right to designate and separately redeem their homestead. The bank contends that the statute did not require it to provide notice because the bank began the foreclosure action as a counterclaim. We see no language in the statute creating that exception. We hold that the bank failed to meet its statutory notice duty.

The statute does not expressly prohibit foreclosure if a mortgagee failed to give this notice, however, and the O'Briens do not point to language or offer any argument compelling that result. The district court reasoned that the bank's failure to provide the

notice would not prevent the foreclosure because foreclosures by judicial action do not require strict statutory compliance, citing an unpublished opinion of this court. It found that the O'Briens were not prejudiced by the lack of notice here because they "have had ample opportunity to exercise the designation rights of which they are obviously aware." By making the designation-notice argument in the district court, the O'Briens demonstrated that they were indeed fully aware of their right to "designate a legal description of the homestead property to be sold separately," and they could have easily vindicated their homestead rights by doing so without forfeiting their fight against the foreclosure generally. The O'Briens' designation-notice argument essentially asks us to correct a notification error that obviously caused them no harm. We decline to do so.

IV

The bank argues on cross-appeal that the district court erred by sanctioning it for failing to comply with the district court's order compelling discovery. We will overturn a discovery order for sanctions only if the district court abused its discretion. *Frontier Ins. Co. v. Frontline Processing Corp.*, 788 N.W.2d 917, 922 (Minn. App. 2010), *review denied* (Minn. Dec. 14, 2010). The district court generally acts within its discretion when issuing sanctions when it warned of sanctions for noncompliance, when the failure to cooperate was part of a pattern, when the failure was willful or without justification, and when the misconduct prejudiced the moving party. *See id.* at 922. The district court sanctioned the bank because it "ha[d] unreasonably failed to fully comply with" the discovery order and "interfered with and obstructed the discovery process in general." The bank had provided only an incomplete spreadsheet with "some transaction information" back to 2008 rather

than a complete spreadsheet containing all activity in Shamrock's checking account since 2003. The bank had also provided only documents that were readily available rather than the documents required under the order, even though it had access to files containing them. The bank also dripped the circumstances and the requested information to the O'Briens intermittently and in difficult-to-review formats. Given the district court's broad discretion regarding sanctions and the power over its proceedings, we hold that the district court did not abuse its discretion by sanctioning the bank for its discovery deficiency.

Affirmed.