

**Endless Funding Group LLC v Skai Tran Logistics
LLC**

2025 NY Slip Op 35255(U)

December 19, 2025

Supreme Court, Kings County

Docket Number: Index No. 528072/2025

Judge: Francois A. Rivera

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(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, held in and for
the County of Kings, at the
Courthouse, at Civic Center,
Brooklyn, New York, on the
19th day of December 2025

HONORABLE FRANCOIS A. RIVERA

-----X
ENDLESS FUNDING GROUP LLC,

Petitioner,

- against -

SKAI TRAN LOGISTICS LLC, NATIONAL BUSINESS
TECHNOLOGIES, LLC., EXECUTIVE GLOBAL
INVESTMENT CORP, SKAI TRA SOLUTIONS, INC.,
ADVANCE ROOFING AND CONSTRUCTION LLC,
PARADISE BAR & BISTRO LLC, and KEVIN G
LEVERMORE, and BANK OF AMERICA, N.A.,

Respondents.

-----X

Recitation in accordance with CPLR 2219 (a) of the papers considered on the notice of petition filed on August 18, 2025, under motion sequence number one, by petitioner Endless Funding Group LLC (hereinafter petitioner), for an order pursuant to CPLR 5225 and 5227 directing Bank of America, N.A. (hereinafter BOA), to pay over to petitioner the funds on account at BOA in the name of respondents Skai Tran Logistics LLC, National Business Technologies, LLC, Executive Global Investment Corp, Skai Tran Solutions, Inc., Advance Roofing and Construction LLC, Paradise Bar & Bistro LLC, and/or Kevin G Levermore (hereinafter respondents). The motion is unopposed.

- Petition
- Notice of petition
Exhibit A-B
- Affidavits of service

BACKGROUND

On August 18, 2025, petitioner. commenced the instant special proceeding by filing a notice of petition, verified petition, and annexed exhibits (hereinafter the commencement papers) with the Kings County Clerk's office (hereinafter "KCCO").

DECISION & ORDER

Index No.: 528072/2025

Oral Argument:12/18/2025

Cal. No.: 19

Ms. Seq. No.: 1

The verified petition alleged the following salient facts. Petitioner is a judgment creditor pursuant to a judgment entered in this Court on or about June 28, 2024, against judgment debtors in the amount of \$35,613.82 (the “Judgment”). A copy of the Judgment is annexed hereto as Exhibit A. Respondent Skai Tran Logistics LLC is the judgment debtor under the judgment and, upon information and belief, has a place of business located at 283 Swanson Dr Ste 105, Lawrenceville, GA 30043. Respondent National Business Technologies, LLC is the judgment debtor under the judgment and, upon information and belief, has a place of business located at 40 Technology Pkwy S, Ste 180, Peachtree Corners, GA 30092. Respondent Executive Global Investment Corp is the judgment debtor under the judgment and, upon information and belief, has a place of business located at 40 Technology Pkwy S, Ste 180, Peachtree Corners, GA 30092. Respondent Skai Tran Solutions, Inc. is the judgment debtor under the judgment and, upon information and belief, has a place of business located at 40 Technology Pkwy S, Ste 180, Peachtree Corners, GA 30092. Respondent Advance Roofing and Construction LLC is the judgment debtor under the judgment and, upon information and belief, has a place of business located at 40 Technology Pkwy S, Ste 180, Peachtree Corners, GA 30092. Respondent Paradise Bar & Bistro LLC is the judgment debtor under the judgment and, upon information and belief, has a place of business located at 383 Marietta St NW Ste C, Atlanta, GA 30313. Respondent Kevin G. Levermore is the judgment debtor under the judgment and, upon information and belief, has a place of business and/or residence located at 4360 Ivy Lynn Pl, Snellville, GA 30039.

Respondent BOA is a financial institution, which is in custody of monies held for the interest of the judgment debtor. Upon entry of the Judgment, petitioner served BOA with a restraining notice (along with the requisite exemption notice and 2 exemptions claim forms) and an Information Subpoena. Also, at the same time, pursuant to CPLR §5222(d) notice to judgment debtor or obligor, petitioner served a copy of the 2 restraining notices along with the requisite exemption notice and 2 exemption claim forms via first class mail to the judgment debtor's residence, which was not returned as undeliverable.

In response, on or about November 18, 2024, BOA responded that there is/are accounts belonging to judgment debtors on hold, in which the amount held is \$4,090.04. A copy of BOA's response to the Information Subpoena is annexed hereto as Exhibit B. No part of the judgment has been paid and the full amount of the judgment plus statutory interest at a rate of 9% per annum from the date of the judgment remains due and outstanding. The judgment remains wholly unsatisfied, and petitioner seeks an order directing BOA to turn over all funds being held for the benefit of the judgment debtors because of the Restraining Notice from the Petitioner. Neither the judgment debtor nor the respondent has appeared or submitted opposition to the petition.

LAW AND APPLICATION

CPLR 5225 pertains to payment or delivery of property of a judgment debtor. CPLR 5225 (a) pertains to property in the possession of the judgment debtor and CPLR 5225 (b) pertains to debtor's property that is not in the possession of the judgment debtor. CPLR 5225 (b) applies to the instant action and provides as follows:

Property not in the possession of judgment debtor. Upon a special proceeding commenced by the judgment creditor, against a person in possession or custody of money or other personal property in which the judgment debtor has an interest, or against a person who is a transferee of money or other personal property from the judgment debtor, where it is shown that the judgment debtor is entitled to the possession of such property or that the judgment creditor's rights to the property are superior to those of the transferee, the court shall require such person to pay the money, or so much of it as is sufficient to satisfy the judgment, to the judgment creditor and, if the amount to be so paid is insufficient to satisfy the judgment, to deliver any other personal property, or so much of it as is of sufficient value to satisfy the judgment, to a designated sheriff. Costs of the proceeding shall not be awarded against a person who did not dispute the judgment debtor's interest or right to possession. Notice of the proceeding shall also be served upon the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. The court may permit the judgment debtor to intervene in the proceeding. The court may permit any adverse claimant to intervene in the proceeding and may determine his rights in accordance with section 5239.

“In order to sustain a petition pursuant to CPLR 5225(b), a petitioner must establish that the respondent was in possession of money or assets in which the petitioner had an interest or that the respondent was a transferee of money or assets from the judgment debtor and that the petitioner's rights to the money or assets were superior to the respondent's rights to the money or assets” (*Taunton Metals of Florida, Inc. v Solutions in Stainless, Inc.*, 234 AD3d 726, 729 [2d Dept 2025], citing *Matter of Rockefeller v Statement Servs., Corp.*, 204 AD3d 920, 921 [2d Dept 2022]).

In a special proceeding, “[t]he court shall make a summary determination upon the pleadings, papers and admissions to the extent that no triable issues of fact are raised” (CPLR 409 [b]; *Matter of Saadia Safdi Realty, LLC v Press*, 207 AD3d 633, 635 [2d Dept 2022]). “CPLR 5225 (b) provides for an expedited special proceeding by a judgment

creditor to recover ‘money or other personal property’ belonging to a judgment debtor ‘against a person in possession or custody of money or other personal property in which the judgment debtor has an interest’ in order to satisfy a judgment” (*Matter of Rockefeller v Statement Servs., Corp.*, 204 AD3d 920, 921 [2d Dept 2022]; citing *Matter of Signature Bank v HSBC Bank USA, N.A.*, 67 AD3d 917, 918 [2d Dept 2009]). “Such a proceeding may also be maintained ‘against a person who is a transferee of money or other personal property from the judgment debtor’ ” (*Matter of Rockefeller v Statement Servs., Corp.*, 204 AD3d 920, 921 [2d Dept 2022]; citing CPLR 5225 [b], and citing *Matter of Goldberg & Connolly v Xavier Constr. Co., Inc.*, 94 AD3d 1117, 1118 [2d Dept 2012]).

CPLR article 4 sets forth the rules governing special proceedings. CPLR 409 (b) provides in pertinent part that “[t]he court shall make a summary determination upon the pleadings, papers and admissions to the extent that no triable issues of fact are raised” (CPLR 409 [b]). “Pursuant to CPLR 409 (b), in a special proceeding, where there are no triable issues of fact raised, the court must make a summary determination on the pleadings and papers submitted as if a motion for summary judgment were before it” (*Matter of Korotun v Laurel Place Homeowner's Assn.*, 6 AD3d 710, 711-712 [2d Dept 2004], citing *Matter of Friends World Coll. v Nicklin*, 249 AD2d 393, 394 [2d Dept 1998]). CPLR 403 (c) provides that “[a] notice of petition shall be served in the same manner as a summons in an action” (CPLR 403 [c]).

With the filing of a petition under article 52 of the CPLR, there are specific methods of service of the commencement papers on the respondent and the judgment debtor. In accordance with CPLR 403 (c), the respondent must be served in the same manner as a

summons (CPLR 403 [c]). In accordance with CPLR 5225 (b), the judgment debtor must be served “in the same manner as a summons or by registered or certified mail, return receipt requested” (CPLR 5225 [b]).

“The plaintiff has the burden of proving the court's personal jurisdiction over a defendant” (*Sidney v Genova*, 241 AD3d 1492 [2d Dept 2025], quoting *Nationstar Mtge., LLC v Moyaev*, 235 AD3d 648, 649 [2d Dept 2025]).

The petitioner proffered several affirmations of service by Rickin Desai, petitioner’s counsel (hereinafter Desai), filed under NYSCEF number seven, eight, nine and ten as proof of service of the commencement papers on the judgment debtors.

The purported affirmations of Desai did not comply with CPLR 2106 as amended (CPLR 2106; *see* Patrick M. Connors, *The Blockbuster Amendment to CPLR 2196 Permitting Any Person to Submit an Affirmation in Lieu of an Affidavit*, 98 St. John's L. Rev. 375, 381 [2024] [analyzing the amended CPLR 2106]). It lacked the language prescribed in the statute, or language that is in substantially the following form: “I affirm this ___ day of _____, _____, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.”

The affirmations by Desai were insufficient and did not encompass the requisite language or language substantially reflective of that required in the statute. Here, “[t]here was no acknowledgement of the laws of New York or the possible penalties of fine or imprisonment if the statements made therein were not true” (*R.F. v L.K.*, 82 Misc 3d 1221[A], 2024 NY Slip Op 50358[U], *7 [Sup Ct, Westchester County 2024]). Therefore,

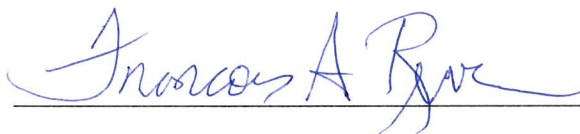
none of the affirmations were in admissible form and they could not be relied upon as proof of facts set forth therein” (R.F., 2024 NY Slip Op 50358[U], *7, citing *Graham Ct. Owners Corp. v Memminger*, 81 Misc 3d 1248[A], *2 n 5 [Civ Ct, NY County 2024]; see also *Grandsard v Hutchison*, 2024 WL 1957086, *1 [Sup Ct, NY County 2024], aff’d, 227 AD3d 491, 491 [1st Dept 2024]). Consequently, the petitioner did not submit admissible proof of service of the commencement papers upon any of the judgment debtors.

CONCLUSION

The petition by Endless Funding Group LLC for an order pursuant to CPLR 5225 and 5227 directing Bank of America, N.A. to pay over to petitioner the funds on account in the name of respondents Skai Tran Logistics LLC, National Business Technologies, LLC, Executive Global Investment Corp, Skai Tran Solutions, Inc., Advance Roofing and Construction LLC, Paradise Bar & Bistro LLC, and/or Kevin G Levermore is denied.

The foregoing constitutes the decision and order of this Court.

ENTER:



J.S.C.

HON. FRANCOIS A. RIVERA