

29th St. Assoc. LLC v Syed
2026 NY Slip Op 30968(U)
March 10, 2026
Supreme Court, New York County
Docket Number: Index No. 651345/2025
Judge: James G. Clynnes
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JAMES G. CLYNES PART 39M

Justice

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29TH STREET ASSOCIATES LLC,
Plaintiff,

- v -

MASIULIA S SYED, SAYED M RAHMAN
Defendant.

INDEX NO. 651345/2025
MOTION DATE 03/10/2025
MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 11, 12
were read on this motion to/for JUDGMENT - SUMMARY IN LIEU OF COMPLAINT.

Upon the foregoing documents, the Plaintiff's motion seeking summary judgment in lieu
of complaint dated March 10, 2025, is granted without opposition.

Background

The Plaintiff, 29th Street Associates LLC ("Plaintiff"), is the owner of the property located
at 217 East 29th Street, New York, New York (the "Building") ("Deed"; Ex. A). The Building
includes commercial premises known as the West Store. Pursuant to a Lease Agreement, the
Plaintiff, as landlord, leased the West Store premises to MASI 219 Deli Grocery Corp. ("Tenant")
("Lease"; Ex. B). In connection with the Lease, the defendants Masiulia A. Syed and Sayed M.
Rahman executed a written guaranty in favor of the Plaintiff (the "Guaranty"; Ex. C), under which
they personally guaranteed the payment of rent and other charges owed by the Tenant under the
lease (Id. at §1), as well as legal fees incurred in enforcing the guaranty (Id. at §3). The Guaranty
further provides that any action arising out of or relating to the Guaranty shall be brought
exclusively in the state or federal courts located in New York County (Id. at §3).

The Tenant subsequently became delinquent in the payment of rent and related charges due
under the Lease. According to the Tenant Ledger maintained by Plaintiff ("the Ledger"), the Tenant
accrued unpaid rent totalling \$105,869.29 (Ex. D). The Lease further provided for late fees and
interest on unpaid rent (Lease at §40). The Ledger reflects late fees of \$80,405.39 and interest
charges of \$20,273.00 calculated pursuant to the lease terms (Ex. D).

As of the preparation of the supporting affidavit, the Tenant had failed to pay the outstanding rent and charges due under the Lease (Ruhl Aff. at Paragraph 15). It is the Plaintiff's case that by virtue of the Guaranty, defendants Syed and Rahman are jointly liable for the Tenant's obligations. The total amount being claimed by the Plaintiff under the lease and guaranty is \$206,547.68, representing unpaid rent, late fees, and interest (*Id.*).

Plaintiff also seeks an award of attorneys' fees pursuant to the Guaranty. In support, plaintiff's counsel has submitted an affirmation describing his experience in commercial litigation and creditor collection matters and explaining the work performed in connection with this action. Counsel states that he has been admitted to practice in New York since 1985 and regularly handles similar matters. He further represents that he bills at a rate of \$500 per hour and estimates that the total legal fees associated with this matter will amount to approximately \$60,900 (Altschul Aff. at Paragraphs 6 and 7). Further, the Counsel has detailed various tasks performed in connection with the preparation and filing of the motion, including client consultations, review of documents, legal research, investigation of the defendants, and preparation and filing of the present CPLR 3213 application (*Id.* at Paragraph 8). Plaintiff therefore seeks recovery of attorneys' fees in the amount of \$60,900.

Standard of Review

Under CPLR 3213, a plaintiff may move for summary judgment in lieu of complaint where "an action is based upon an instrument for the payment of money only." A guarantee qualifies as an instrument for the payment of money only and may be the subject of a CPLR 3213 motion so long as the plaintiff establishes that an absolute and unconditional guarantee of payment exists [See *Bank of Am., N.A. v. Solow*, 59 A.D.3d 304 (2009); and *Board of Managers of the Saratoga Condominium v. Shuminer*, 148 A.D.3d 609 (1st Dept. 2017)]. An unconditional guaranty is an instrument for the payment of money only, whether or not it recites a sum certain (*European Am. Bank v Cohen*, 183 AD2d 453, 585 N.Y.S.2d 1017 [1st Dept 1992]).

To meet its *prima facie* burden on its summary judgment motion, a Plaintiff-creditor must prove "the existence of the guaranty, the underlying debt, and the guarantor's failure to perform under the guaranty." [*Cooperatieve Centrale Raiffeisen-Boerenleenbank, B.A. v. Navarro*, 25 N.Y.3d 485 (2015)].

The determination of reasonable attorney's fees generally requires calculation of the fee by multiplying the reasonable number of hours expended by a reasonable hourly rate. The resulting

figure may then be adjusted based on subjective factors, such as the complexity of the case, the results obtained, and the skill required to handle the matter. Courts also consider factors such as the attorney's experience, reputation, and the customary fee charged for similar services in the community [*Bankers Fed. Sav. Bank FSB v. Off W. Broadway Developers*, 224 A.D.2d 376 (1996)]. The attorney seeking fees bears the burden of demonstrating the reasonableness of the fees requested.

Discussion

The Plaintiff has established its *prima facie* entitlement to summary judgment in lieu of complaint under CPLR 3213. The Guaranty executed by defendants Syed and Rahman constitutes an instrument for the payment of money only, as it contains an absolute and unconditional promise by the guarantors to pay the rent and related charges under the Lease (Guaranty at §1).

The record establishes that the Tenant defaulted on its obligations under the Lease by failing to pay rent and related charges, resulting in arrears totalling \$206,547.68 as reflected in the Tenant Ledger (Ex. D). The Defendants, who executed the Guaranty in favor of the Plaintiff, thereby guaranteeing payment of those obligations, failed to satisfy the outstanding amounts despite the Tenant's default. Therefore, the Plaintiff is entitled to summary judgment as a matter of law under CPLR 3213.

Although the Plaintiff has shown that it is entitled to reasonable attorney's fees based on the Guaranty, which provides that, "*Guarantor shall pay to Landlord all of Landlord's reasonable expenses, including Landlord's reasonable legal fees, court costs, and disbursements incurred by Landlord in enforcing its rights under this Guaranty*" (Guaranty at §3) and even though the Plaintiff's counsel has submitted an affidavit detailing counsel's experience, hourly billing rate, and the work performed in connection with this action, etc., the determination of the amount of such fees requires a hearing to assess their reasonableness.

Accordingly, it is

ORDERED that the motion for summary judgment in lieu of complaint is granted, and the Clerk is directed to enter judgment in favor of Plaintiff and against the Defendant, in the amount of \$206,547.68, together with statutory interest from March 1, 2020 until the date of this decision and order as calculated by the Clerk, together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs; and it is further;

ORDERED that plaintiff's proposed judgment to the Clerk shall include an affidavit detailing the applicable default interest rate(s) for the period from March 1, 2020, until the date of this decision and order; and it is further

ORDERED that the issue of Plaintiff's reasonable attorneys' fees is to be referred to a Special Referee to hear and determine the amount of such fees; and it is further

ORDERED that there shall be no further motion practice without a pre-motion conference. This constitutes the Decision and Order of the Court.

3/10/2026
DATE



JAMES G. CLYNES, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE