

Frioux v United Nations
2007 NY Slip Op 33541(U)
October 26, 2007
Supreme Court, New York County
Docket Number: 0109896/2007
Judge: Jane S. Solomon
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SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: SOLOMON

PART 55

Index Number : 109896/2007

109896/2007

FRIIOUS, PATRICIA

INDEX NO. _____

vs
UNITED NATIONS

MOTION DATE 10 - 16 - 2007

Sequence Number : 001

MOTION SEQ. NO. _____

DEFAULT JUDGMENT

MOTION CAL. NO. _____

The following papers, numbered 1 to 3 were read on this motion to/for default judgment

PAPERS NUMBERED
1 - 3

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

Cross-Motion: Yes No

Upon the foregoing papers, It is ordered that this motion is decided in
accordance with the annexed memorandum decision
and order.

FILED
OCT 31 2007
NEW YORK
COUNTY CLERK'S OFFICE

Dated: 10/26/07

JANE S. SOLOMON J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

— DO NOT POST REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 55

-----X

PATRICIA FRIoux,

Plaintiff,

INDEX NO. 109896/2007

-against-

UNITED NATIONS,

DECISION and ORDER

Defendant.

-----X

JANE S. SOLOMON, J.

FILED
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Plaintiff Patricia Frioux ("Plaintiff") moves for a default judgment against defendant United Nations (the UN). For the reasons discussed herein, the motion is denied and the motion for summary judgment is dismissed.

Plaintiff alleges that on or about November 2, 1994, she suffered severe injuries while attempting to leave the UN's Headquarters in Manhattan. Plaintiff claims she mistook a plate glass window for a door, and it shattered when she pushed against it. On July 13, 1999, Plaintiff and the UN entered into a written agreement (the "Agreement"), under which the parties agreed to resolve her claim against the international body through arbitration. Article 11 of the Agreement states "[n]othing in or relating to this Agreement shall be deemed a

waiver, express or implied, of the privileges and immunities of the United Nations, including its subsidiary organs."

Plaintiff contends that the UN breached the Agreement by failing to participate in the arbitration proceedings, and that she has suffered \$100,000 in related damages. She commenced the instant action by filing a Summons and Complaint with the New York County Clerk on July 18, 2007. Plaintiff's process server attempted to serve the same on the UN personally, "but was told that the UNITED NATIONS is immune from every sort of legal process service." A copy was then mailed by Certified Mail, Return Receipt Requested to the UN on August 7, 2007. The UN has not appeared, and Plaintiff now moves under CPLR § 3215(a) for default judgment.

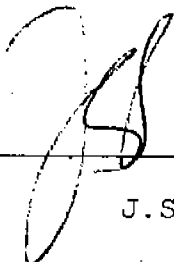
The Convention on the Privileges and Immunities of the United Nations (the "Convention"), (21 U.S.T. 1418, T.I.A.S. No. 6900), which was adopted by the UN's General Assembly on February 13, 1946 and acceded to by the United States on April 29, 1970, confers on the UN a broad immunity from legal action. Specifically, Section 2 of the Convention provides that the UN "shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity." 21 U.S.T. 1418, 1422. Here, the Agreement expressly states that it shall not be deemed a waiver of the UN's immunity.

Accordingly, Plaintiff's motion for default judgment must be denied, and upon searching the record, it hereby is

ORDERED that the Complaint is dismissed, and the Clerk is directed to enter judgment accordingly.

Dated: October 26, 2007

ENTER:



J.S.C.
JANE S. BLUMHAGEN

FILED
OCT 31 2007
NEW YORK
COUNTY CLERK'S OFFICE