

Port Auth. of N.Y. & N.J. v Rivera
2018 NY Slip Op 31190(U)
May 29, 2018
Supreme Court, New York County
Docket Number: 451592/2016
Judge: Kathryn E. Freed
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SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: HON. KATHRYN E. FREED

PART

IAS MOTION 2

Justice

-----X

INDEX NO.

451592/2016

THE PORT AUTHORITY OF NEW YORK & NEW JERSEY,

Plaintiff,

MOTION SEQ. NO.

002

- v -

VASQUEZ RIVERA a/k/a CHRISTIAN VASQUEZ RIVERA and
JOHN DOE 1-100,**DECISION AND ORDER**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 11, 12, 13
were read on this motion to/for DEFAULT JUDGMENT

Upon the foregoing documents, it is ordered that **this motion is granted without opposition.**

This action was commenced by the Port Authority of New York & New Jersey ("Port Authority"), which owns, operates, maintains, and controls the George Washington Bridge, the Lincoln Tunnel, the Holland Tunnel, the Bayonne Bridge, the Outerbridge Crossing and the Goethals Bridge. Part of its mandate for these bridges and tunnels is to collect tolls associated with their usage pursuant to N.Y. Unconsolidated Laws §6802 and N.J.S.A. 32:1-154.2. Consistent with its responsibilities, the Port Authority brought this action against defendants to collect unpaid tolls, violations and late fees pursuant to the aforementioned laws and regulations. Plaintiff alleges that defendant, Vasquez Rivera a/k/a Christian Vasquez Rivera ("defendant"), as the owner of a vehicle(s) which traversed the facilities under its jurisdiction, committed at least 446 separate toll violations without an E-Z Pass tag between March 27, 2013 and April 15, 2014, and failed to make timely payments in response to the citations sent to him by the Port Authority which provided him notice that he had used the Port Authority facilities without payment. As a result, the Port

Authority alleges that defendant owes it a total of \$28,098.00, consisting of \$5,798.00 in unpaid tolls plus \$22,300.00 in unpaid administration fees. Although the Port Authority also names as defendants "John Doe 1-100", representing the drivers of defendant's vehicles which passed through EZ Pass machines without paying tolls, the instant motion only seeks a default judgment against defendant Rivera.

CPLR 3215(a) provides, in pertinent part, that "[w]hen a defendant has failed to appear, plead or proceed to trial..., the plaintiff may seek a default judgment against him." It is well settled that "[o]n a motion for leave to enter a default judgment pursuant to CPLR 3215, the movant is required to submit proof of service of the summons and complaint, proof of the facts constituting the claim, and proof of the defaulting party's default in answering or appearing." *Atlantic Cas. Ins. Co. v RJNJ Servs. Inc.*, 89 AD3d 649, 651 (2d Dept 2011).

The Port Authority annexes an Affirmation in Support by its attorney, Matthew Sledzinski, an associate of the Law Offices of Peter C. Merani, P.C., who avers that the Plaintiff is entitled to a default judgment herein and that defendant has failed to timely appear in this matter. Sledzinski annexes as Exhibit A to his affirmation a copy of the Summons and Complaint with an Affidavit of Service. In the Port Authority's previous motion (motion sequence 001), it submitted a complaint verified by Peter Van Keuren, a Violation Analyst for the Port Authority. This Court held in its prior order that Van Keuren's affidavit alone was insufficient to establish the Port Authority's entitlement to a default judgment against defendant given its failure to annex as an exhibit copies of the citations it sent to defendant. In connection with the instant motion, the Port

Authority has annexed as Exhibit D a copy of the Violations Citation Detail Report, reflecting the times at which defendant drove through E-Z Pass toll booths without paying. Finally, plaintiff also annexes as Exhibit C an Affirmation of non-military service including copies of the Department of Defense, Defense Manpower Data Center with sufficient information to prove that the defendant is not in the military and thereby satisfies the Court as to defendants' not being in the military, regardless of whatever name defendant is known by.

The Port Authority has, with its submissions on this motion adduced sufficient facts constituting the claim. Specifically, it has shown that the total sum owed to it by defendant is \$28,098.00, the sum demanded herein, consisting of \$5,798.00 in unpaid tolls and \$22,300.00 in unpaid administration fees.

Therefore, in accordance with the foregoing, it is hereby:

ORDERED that the motion by the plaintiff Port Authority of New York & New Jersey for a default judgment against defendant, Vasquez Rivera a/k/a Christian Vasquez Rivera, is granted in the amount of \$28,098.00; and it is further,

ORDERED that the Clerk is directed to enter judgment in favor of plaintiff and against defendant Vasquez Rivera a/k/a Christian Vasquez Rivera, in the amount of \$28,098.00; and it is further

ORDERED that plaintiff Port Authority of New York & New Jersey shall serve a copy of this order on defendant Vasquez Rivera a/k/a Christian Vasquez Rivera, and on the Trial Support Office at 60 Centre Street, Room 158; and it is further,

ORDERED that this constitutes the decision and order of this Court.

5/29/2018

DATE


KATHRYN E. FREED, J.S.C.

CHECK ONE:

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CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

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DENIED

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NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

☐

OTHER

☐

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: