

**Port Auth. of N.Y. & N.J. v New Generation Transp.**

2019 NY Slip Op 30037(U)

January 4, 2019

Supreme Court, New York County

Docket Number: 450203/2016

Judge: Kathryn E. Freed

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. KATHRYN E. FREED PART IAS MOTION 2

Justice

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INDEX NO. 450203/2016

PORT AUTHORITY OF NEW YORK & NEW JERSEY,

MOTION DATE 12/21/2018

Plaintiff,

MOTION SEQ. NO. 002

- v -

NEW GENERATION TRANSPORT and SANDRA FELIZ,

Defendants.

DECISION AND ORDER

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 14, 15, 16, 17, 18, 19, 20, 21, 22

were read on this motion to/for REARGUMENT/RECONSIDERATION

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

The captioned action is brought by the Port Authority of New York & New Jersey ("Port Authority"), a body corporate and politic created by Compact between the States of New York and New Jersey. The Port Authority 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 has initiated the underlying action against defendants to collect unpaid tolls, violations and late fees pursuant to the aforementioned laws and regulations. The Port Authority alleges that defendant New Generation Transport and Sandra Feliz ("defendants"), as the owners of a vehicle or vehicles which traversed the facilities under its jurisdiction without paying the tolls on 598 occasions

between February 18, 2015 and July 28, 2015, and failed to make timely payments in response to the citations sent to the defendants by the Port Authority which provided them with notice that they had used its facilities without payment. As a result, the Port Authority alleges that defendants owe it a total of \$45,604.00, consisting of \$15,704.00 in unpaid tolls and \$29,900.00 in unpaid administrative fees. Although the Port Authority also names as defendants “John Doe 1-100”, representing the drivers of defendants’ vehicles which passed through E-Z Pass machines without paying tolls, the instant motion only seeks a default judgment against defendants.

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 [her].” 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). Moreover, a default in answering the complaint is deemed to be an admission of all factual statements contained in the complaint and all reasonable inferences that flow from them. *See Woodson v Mendon Leasing Corp.*, 100 NY2d 63 (2003).

The Port Authority annexes as Exhibit A, (Doc. No. 17)<sup>1</sup> a copy of the Summons and Complaint with an Affidavit of Service. In the previous motion, the Complaint was verified by Peter Van Keuren, a Violation Analyst for the Port Authority. This Court held that Van

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<sup>1</sup> All references are to the documents filed with NYSCEF in connection with this action.

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. Doc. No. 20,

In the within motion, the Port Authority has annexed as Exhibit E (Doc. No.21) an Affidavit In Support from Charlene Allen, a Senior Transportation Program Analyst. Appended to her affidavit are the following: a copy of the Violations Citation Detail Report, reflecting the times at which defendants' vehicle drove past E-Z Pass toll booths without paying; copies of Violation Enforcement Notices mailed to defendants generated for each of their violations by the Port Authority; and photographic images taken of defendants' license plate as the vehicle passed the Port Authority's toll booths. Finally, plaintiff also annexes as Exhibit C (Doc. No. 19), an Affirmation of non-military service for defendant Sandra Felix.

In the case at bar, plaintiff Port Authority of New York & New Jersey, with the submissions included herein, has submitted sufficient facts constituting the claim establishing that defendants committed the alleged violations and that, as a result, they owe the Port Authority a total of \$45,604.00, the amount sought herein.

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

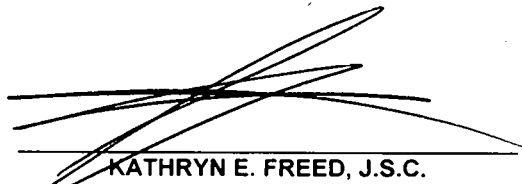
**ORDERED** that the motion by the plaintiff Port Authority of New York & New Jersey for a default judgment against defendants New Generation Transport and Sandra Feliz in the amount of \$45,604.00 is granted; and it is further,

**ORDERED** that the Clerk is directed to enter judgment in favor of plaintiff and against defendants New Generation Transport and Sandra Feliz, in the amount of \$45,604.00; and it is further

**ORDERED** that plaintiff Port Authority of New York & New Jersey shall serve a copy of this order on defendants New Generation Transport and Sandra Feliz, 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.

1/4/2019  
DATE

  
KATHRYN E. FREED, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE