

Styles v Global Quality, Inc.

2020 NY Slip Op 30991(U)

April 21, 2020

Supreme Court, New York County

Docket Number: 155621/2017

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 2EFM**

Justice

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INDEX NO. 155621/2017

VIVIAN STYLES, RAMON GOMEZ, FOR THEMSELVES
AND ON BEHALF OF ALL OTHERS SIMILARLY
SITUATED,

MOTION SEQ. NO. 003

Plaintiffs,

- v -

GLOBAL QUALITY, INC., ONE LINK LIMO, INC., and
LANDMARK WORLDWIDE GROUP, INC.,

**DECISION + ORDER ON
MOTION**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 003) 36, 37, 38, 39, 40, 41, 42, 43, 44

were read on this motion to/for JUDGMENT - DEFAULT.

This is a class action, commenced pursuant to New York Labor Law §§ 663 and 198 and 12 New York Codes, Rules, and Regulations § 142-2.2, to recover unpaid overtime compensation owed to plaintiffs Vivian Styles, Ramon Gomez, and others similarly situated who are or were employed by defendants Global Quality, Inc. d/b/a Global Quality Transportation, One Link Limo, Inc., and Landmark Worldwide Group, Inc. Plaintiffs move, pursuant to CPLR 3215, for a default judgment against defendants. After a review of the motion papers, as well as the relevant statutes and case law the motion, which is unopposed, is decided as follows.

The captioned action was commenced by the filing of a summons and complaint on June 20, 2017. Doc. 1. Plaintiff thereafter served defendants with process. Docs. 2-4. Defendants thereafter joined issue by their answer filed September 20, 2017. Doc. 7.

By order to show cause filed May 11, 2018, Phillips Nizer LLP moved to be relieved as counsel for defendants on the ground that it had not been paid for its legal services in this matter. Doc. 26. Phillips Nizer LLP's motion was granted by order entered June 19, 2018. Doc. 29. The said order directed defendants to obtain new counsel within 30 days of entry and required them to appear for a preliminary conference on October 23, 2018. Doc. 29.

Although plaintiffs' attorney appeared for the preliminary conference on October 23, 2018, neither defendants nor anyone on their behalf attended. Doc. 32. In an order issued that day and entered October 25, 2018, this Court noted that defendants had defaulted in appearing and that plaintiffs' counsel intended to file a motion for default. Doc. 32. This Court further directed all parties to appear for a compliance conference on March 26, 2019. Doc. 32.

On March 26, 2019, defendants again failed to appear for the scheduled discovery conference. Doc. 33. In an order issued that day, this Court directed that defendants appear for a conference on July 16, 2019 and that, if they did not, "the Court will consider imposing appropriate sanctions, including striking of pleadings, the granting of a default and/or the dismissal of this case, in accordance with 22 NYCRR § 202.27." Doc. 33. The order further directed plaintiffs' attorney to serve the defendants with a copy of the order by certified mail, return receipt requested, and to provide proof of such service at the July 16, 2019 conference. Doc. 33. Such proof of service has been provided to this Court. Doc. 45.

On July 16, 2019, defendants again failed to appear for the scheduled discovery conference despite the warning set forth in the March 27, 2019 order. Doc. 34. By order entered July 17, 2019, this Court granted a default judgment against defendants due to their failure to appear and referred the case for an inquest on damages. Doc. 34. This Court further directed plaintiffs to serve the order on all parties and directed the Clerk of the Court to enter

judgment against defendants upon proof of service of the order upon defendants. Doc. 34. The July 17, 2019 order was served on all parties by first class and certified mail. Doc. 46.

On January 10, 2020, plaintiffs filed the instant motion seeking a default judgment against defendants pursuant to CPLR 3215. Doc. 36. The motion is denied as moot, however, since the relief sought has already been granted by this Court in its order entered July 17, 2019. *See generally Williams v REDF Equities, LLC*, 2018 NY Slip Op 51224(U) (Sup Ct Kings County 2018).

Therefore, in light of the foregoing, it is hereby:

ORDERED that the motion is denied as moot; and it is further

ORDERED that this matter is referred to a Special Referee for the purpose of conducting an inquest as to damages to be awarded to plaintiffs; and it is further

ORDERED that within 14 days of the entry of this order on the NYSCEF system, plaintiff shall file a Note of Issue, pay the appropriate fees, and serve a copy of this order with notice of entry, as well as a completed information sheet, on the Special Referee Clerk at spref-nyef@nycourts.gov, who is directed to place this matter on the calendar of the Special Referee's part for the earliest convenient date and notify all parties of the hearing date; and it is further

ORDERED that, within twenty days hereof, plaintiff shall serve a copy of this order, with notice of entry, on defendants 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.

4/21/2020

DATE

KATHRYN E. FREED, 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