

Monsalve v Agudelo
2021 NY Slip Op 31795(U)
May 25, 2021
Supreme Court, New York County
Docket Number: 652027/2020
Judge: Debra A. James
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. DEBRA A. JAMES

PART

IAS MOTION 59EFM

Justice

-----X

INDEX NO.

652027/2020

YURANI MONSALVE and TIBOR PROKOPOVIC,

MOTION DATE

1/08/2021

Plaintiffs,

MOTION SEQ. NO.

001

- v -

RICHARD AGUDELO, TERREMOTO COFFEE CCC, INC.,
TERREMOTO COFFEE CHELSEA LLC and TERREMOTO
COFFEE TWO, LLC, XYZ CORP. #1-5, JOHN DOE #1-5,
JANE DOE #1-5DECISION + ORDER ON
MOTION

Defendants.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 10, 11, 12, 13, 14,
15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28

were read on this motion for

JUDGMENT - DEFAULTORDER

Upon the foregoing documents, it is

ORDERED and ADJUDGED that plaintiffs' motion is granted on default and the issue of damages to be assessed against defendants RICHARD AGUDELO, TERREMOTO COFFEE CCC, INC., TERREMOTO COFFEE CHELSEA LLC and TERREMOTO COFFEE TWO, LLC is referred for determination pursuant CPLR 3215 (b) to a Special Referee and that within 60 days from the date of this Order the plaintiff shall cause a copy of this order with notice of entry, including proof of service thereof, to be filed with the Special Referee clerk (Room 119M, 646-386-3028 or spref@nycourts.gov) to arrange a date for a reference to determine pursuant to CPLR 4317 (b); and it is further

ORDERED and ADJUDGED that pursuant to CPLR 3215 (b) the Clerk is directed to enter judgment in favor of plaintiffs YURANI MONSALVE and TIBOR PROKOPOVIC and against defendants RICHARD AGUDELO, TERREMOTO COFFEE CCC, INC., TERREMOTO COFFEE CHELSEA LLC and TERREMOTO COFFEE TWO, LLC in accordance with the report of the aforementioned Special Referee without any further application; and it is further

ORDERED that the branch of plaintiffs' motion to amend the caption is granted and the caption of the complaint is amended as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----x
YURANI MONSALVE and TIBOR PROKOPOVIC,

Plaintiffs,

- v -

Index No. 652027/2020

RICHARD AGUDELO, TERREMOTO COFFEE CCC,
INC., TERREMOTO COFFEE CHELSEA, LLC and
TERREMOTO COFFEE TWO, LLC,

Defendants.
-----x

is granted; and it is further

ORDERED that plaintiff shall serve a copy of this order with notice of entry upon defendants at their last known addresses and file same with the County Clerk with proof of service; and it is further

ORDERED that plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (Room 141B, 60 Centre Street) and the General Clerk's Office (Room 119, 60 Centre Street), who are directed to mark the court records to reflect the change in the caption herein; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh).

DECISION

In this action for breach of contract, plaintiffs YURANI MONSALVE and TIBOR PROKOPOVIC move for a default judgment based upon the failure of defendants RICHARD AGUDELO, TERREMOTO COFFEE CCC, INC., TERREMOTO COFFEE CHELSEA LLC and TERREMOTO COFFEE TWO, LLC to answer or appear. Plaintiffs also move to amend the caption to reflect defendant TERREMOTO COFFEE CHELSEA LLC's actual name TERREMOTO COFFEE CHELSEA, LLC. Plaintiffs have submitted proof of service of the summons and complaint and proof of service of this motion upon defendants. Plaintiffs have submitted an affidavit of facts as well as an affirmation as to defendants' default pursuant to CPLR 3215 (f). Plaintiff has also submitted proof of additional service of the summons

upon defendants pursuant to CPLR 3215(g)(3)(i) and CPLR 3215(g)(4). This motion is brought within one year of the default.

As the statutory requisites have been established, plaintiffs are entitled to an inquest on damages.

<u>5/25/2021</u>		<u><i>Debra A. James, J.S.C.</i></u>	
DATE		DEBRA A. JAMES, 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