

<b>Direct Chassislink, Inc. v MT Transp., LLC</b>
2022 NY Slip Op 31010(U)
March 29, 2022
Supreme Court, New York County
Docket Number: Index No. 151550/2021
Judge: Louis L. Nock
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT:** HON. LOUIS L. NOCK PART 38M

*Justice*

-----X

DIRECT CHASSISLINK, INC.,

Plaintiff,

- v -

MT TRANSPORT, LLC,

Defendant.

-----X

INDEX NO. 151550/2021

MOTION DATE 10/18/2021

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 6, 7, 8, 9, 10, 11, 12, 13, and 14

were read on this motion for DEFAULT JUDGMENT

Upon the foregoing documents, it is ordered that

Plaintiff's motion for entry of a default judgment pursuant to CPLR 3215 is granted on default and without opposition, based upon the following memorandum decision

**Background**

Plaintiff Direct ChassiLink, Inc. ("DCLI") is in the business of leasing container chassis to motor carriers and others for use in their operations in transporting ocean containers on land. On or about September 20, 2018, DCLI entered into a written agreement with Defendant wherein Defendant leased intermodal chassis from DCLI (the "Agreement"). In accordance with the terms and conditions of the Agreement, Defendant agreed to pay to DCLI a daily usage charge for each intermodal chassis leased by Defendant from DCLI. Plaintiff generated invoices to Defendant for the lease of intermodal chassis for the period starting July 9, 2019 to August 30, 2021 (the "Invoices") totaling \$81,976.18.

Pursuant to the Agreement, Defendant was to provide Plaintiff with payment of the Invoices no later than twenty-one (21) days after the relevant invoice date. The complaint

alleges that Defendant has failed to pay the Invoices, and such allegation is corroborated by the affidavit of Plaintiff's Vice President, Jan Faulkner (NYSCEF Doc. No. 7), submitting exhibit material.

In addition, the Agreement provides that Defendant is required to pay a penalty for late payment at the rate of one (1%) percent per month for all payments received more than 30 days after the relevant invoice date. Late payment penalties for the Invoices aggregate \$8,857.38.

Plaintiff commenced this action by filing a summons and complaint and notice of electronic filing on February 12, 2021 (NYSCEF Doc. No. 1). An affidavit of service filed on March 2, 2021 attests to service upon Defendant by delivering to an authorized agent on February 22, 2021 (NYSCEF Doc. No. 5). An affidavit of additional service filed on October 18, 2021, attests to service on Defendant U.S. mail on March 22, 2021 (NYSCEF Doc. No. 11). Defendant has not answered the complaint or otherwise appeared in the action to date. Plaintiff now moves for entry of a default judgment against Defendant. There is no opposition to the motion.

### Discussion

A plaintiff that seeks entry of a default judgment for a defendant's failure to answer must submit proof of service of the summons and complaint upon the defendant, proof of the facts constituting the claim, and proof of the defendant's default (CPLR 3215). "The standard of proof is not stringent, amounting only to some firsthand confirmation of the facts" (*Feffer v Malpeso*, 210 AD2d 60, 61 [1st Dept 1994]). "[D]efaulters are deemed to have admitted all factual allegations contained in the complaint and all reasonable inferences that flow from them" (*Woodson v Mendon Leasing Corp.*, 100 NY2d 62, 71 [2003]). Nevertheless, "CPLR 3215 does not contemplate that default judgments are to be rubber-stamped once jurisdiction and a failure

to appear have been shown. Some proof of liability is also required to satisfy the court as to the prima facie validity of the uncontested cause of action” (*Guzetti v City of New York*, 32 AD3d 234, 235 [1st Dept 2006] [internal quotations and citations omitted]).

Here, Plaintiff has met its burden on the motion by submission of the affidavit of service demonstrating service of the summons, complaint, and notice of electronic filing on Defendant, an affirmation of its counsel, Ari S. Gatoff, Esq., attesting to the default (NYSCEF Doc. No. 12), the verified complaint (NYSCEF Doc. No. 1), and the affidavit of Jan Faulkner as detailed above, which attests to the facts constituting plaintiff’s claim (NYSCEF Doc. No. 7). In her affidavit, Faulkner reaffirms the allegations of the verified complaint and attests to the amount owed. As Faulkner calculates: the Invoiced base amounts due come to \$81,976.18; a redeployment fee of \$1,250 per chassis – in this case, four chassis – is added pursuant to the Agreement (submitted as NYSCEF Doc. No. 8), aggregating \$10,000; and late fees aggregating \$8,857.38, pursuant to the Agreement, are added. As Faulkner calculates, those sums total \$100,833.56.

In addition, the Agreement entitles Plaintiff to a contingency fee of 32% of the net recovery. Because \$483.90 in expenses were incurred (*see*, Faulkner Aff. ¶ 26), the net recovery herein comes to \$100,349.66. Applying the 32% contingency fee ratio, attorneys’ fees come to \$32,111.89. The foregoing sums (\$100,833.56 + \$32,111.89) aggregate a total judgment amount of \$132,945.45, per the decretal paragraphs set forth below.

Because the defaults in payment by the Defendant occurred over a period of time (July 9, 2019 to August 30, 2021 [*see*, Faulkner Aff. ¶ 7]), the court selects “a single intermediate date” for the commencement of interest accrual on the principal indebtedness of \$100,833.56 (CPLR 5001 [b]). That date is hereby designated as July 9, 2020.

Accordingly, it is hereby

ORDERED that the motion is granted; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment in favor of plaintiff Direct ChassiLink, Inc., and against defendant MT Transport, LLC, in the principal sum of \$100,833.56, with interest thereon at the statutory rate from July 9, 2020, as calculated by the Clerk, and continuing to so accrue until the date of satisfaction of judgment, together with costs and disbursements as taxed by the Clerk upon submission of an appropriate bill of costs; and it is further

ORDERED that the Clerk of the Court is directed to enter an additional judgment in favor of plaintiff Direct ChassiLink, Inc., and against defendant MT Transport, LLC, in the sum of \$32,111.89 as plaintiff's attorneys' fees.

*Louis L. Nock*

3/29/2022

DATE

LOUIS L. NOCK, 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