

Jones Law Firm, P.C. v Peck
2022 NY Slip Op 31164(U)
April 8, 2022
Supreme Court, New York County
Docket Number: Index No. 651700/2020
Judge: Frank Nervo
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. FRANK NERVO PART 04

Justice

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JONES LAW FIRM, P.C.,

Plaintiff,

- v -

IAN PECK, PATRIOT CREDIT COMPANY, LLC, BLUEFIN
CAPITAL PARTNERS, LLC, MODERN ART SERVICES,
LLC, BLUEFIN SERVICING, LTD

Defendant.

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INDEX NO. 651700/2020

MOTION DATE 12/17/2021

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 20, 21, 22, 23, 24 were read on this motion to/for JUDGMENT - DEFAULT.

Plaintiff law firm seeks a default judgment against its former client, defendant Ian Peck. Plaintiff previously sought similar relief, which was denied without prejudice. The motion is unopposed.

CPLR § 3215(a) provides that a plaintiff may obtain a default judgment when a defendant has failed to appear or plead. The plaintiff must provide proof of service of the summons and complaint, proof of the underlying facts constituting the claim, and proof of default (CPLR § 3215(f); *see also SRMOF II 2012-I Trust v. Tella*, 139 AD3d 599 [1st Dept 2016]; *Green Tree Servicing, LLC v. Cary*, 106 AD3d 691, 692 [2d Dept 2013]). Where a plaintiff seeks to recover reasonable attorney's fees in addition to the default judgment, the Court must

sever that portion seeking attorney's fees as to permit the defendant to appear at an inquest and contest damages (see e.g. *Woodward v. Eighmie Moving & Storage, Inc.*, 151 AD2d 892 [2d Dept 1989]).

Here, plaintiff has provided proof of service of the underlying complaint as well as service of this motion (NSYCEF Doc. Nos. 6, 14, and 26). Furthermore, plaintiff has provided proof of the retainer agreement with its prior client, defendant Ian Peck (NYSCEF Doc. No. 3). Finally, the record reflects that Ian Peck has not appeared in this action.

However, upon the evidence submitted on this motion, it is not clear whether plaintiff has established the underlying facts constituting its claim. The Court notes that while plaintiff has submitted 68 pages of invoices, it appears the outstanding invoices for legal work total \$65,365.05 (NYSCEF Doc. No. 4). On these submissions, it is unclear how plaintiff has reached its claimed figure of \$71,665.05; review of the affidavits in support is no more elucidating.

[continued on following page]

Furthermore, to the extent that plaintiff seeks default judgment for reasonable attorney's fees, same cannot be awarded absent an inquest addressing the reasonability of same (*see e.g. Woodward, supra*).

Accordingly, it is

ORDERED that the Court shall hold an inquest on June 15, 2022 at 2:30pm via Microsoft Teams regarding the amount of damages sought and the reasonable attorney's fees, if any, to be awarded; and it is further


ORDERED that plaintiff shall file, via NYSCEF with courtesy copy mailed to chambers, a detailed recitation of the work performed on this motion and the recompense sought for same, no later than May 31, 2022; and it is further

ORDERED that plaintiff shall personally serve defendant Ian Peck with a copy of this decision and order, with proof of service filed via NYSCEF, no later than April 22, 2022; and it is further

ORDERED that should defendant Ian Peck wish to be heard at the above inquest, he shall contact the Part Clerk at SFC-Part4-Clerk@nycourts.gov to receive a link to the virtually held inquest.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

4/8/2022
DATE


FRANK NERVO, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input checked="" type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE