

**Eddington Sec., Inc. v Foundations Group I, Inc.**

2022 NY Slip Op 31332(U)

April 19, 2022

Supreme Court, New York County

Docket Number: Index No. 657080/2021

Judge: Sabrina Kraus

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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. SABRINA KRAUS PART 57TR**

*Justice*

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EDDINGTON SECURITY, INC.,

Plaintiff,

INDEX NO. 657080/2021

MOTION DATE 04/01/2022

MOTION SEQ. NO. 001

- v -

FOUNDATIONS GROUP I, INC., SUMAIDA & KHURANA,  
LLC, 611 W 56TH STREET PROPERTY, LLC, 609 W 56TH  
STREET DEVELOPMENT LLC, FICTIOUS ENTITIES

Defendant.

**DECISION + ORDER ON  
MOTION**

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**BACKGROUND**

Plaintiff commenced this action seeking damages for breach of contract, account stated, quantum meruit and unjust enrichment. Plaintiff asserts that on or about March 18, 2018, the parties entered into an agreement wherein plaintiff agreed to provide security services at 611 West 56th Street, NYC 10019 (Job Site), as well as acquiring and providing a certificate of insurance to defendants. The agreement was signed by Himansu Patel, Senior Superintendent of Foundations, on behalf of Foundations and/or Sumaida & Khurana LLC. Plaintiff asserts they were directed to send bills to Foundations Group, as well as to 611 W 56<sup>th</sup> Street Property LLC, both with the same billing address of 520 West 27th Street, Suite 302, New York, NY 10001.

From March 2019 through June 2021, pursuant to the agreement, plaintiff provided security services at the Job Site as requested by defendants, regularly and timely billed defendants for these services, and defendants accepted and paid for these services.

On or about May 19, 2021, plaintiff submitted an invoice to defendants in the amount of \$18,135.96, for Job Site services provided from April 21, 2021 through May 2021. Defendants did not dispute the amount due but failed to remit payment.

On or about June 16, 2021, plaintiff submitted an invoice to defendants in the amount of \$18,328.98 for Job Site services provided from May 20, 2021 through June 16, 2021. Defendants did not dispute the amount due but failed to remit payment.

On June 25, 2021, Amit Khurana, on behalf of defendants, affirmed the debt and induced plaintiff to continue providing services at the Job Site by promising to pay the outstanding balance by the following Monday, June 28, 2021. Specifically, Mr. Khurana wrote via email: "As discussed, by 5p on Monday, I will make payment of \$36,464.94 and any overtime required to have the security guard come back to the site today." (NYSCEF Doc 14)

The payment was not made, and on June 30, 2021, plaintiff submitted another invoice to defendants in the amount of \$7,428.02 for Job Site services provided from June 17, 2021 through June 28, 2021. Defendants did not dispute the amount due but failed to remit payment.

On August 11, 2021, Amit Khurana responded via email on behalf of defendants, as follows: "We are still in midst of our communication with lender on funding. Let's be in touch next week and will hopefully have answer." The subject line of Khurana's email was: "Re: Payment - 611 W56th Street (PAST DUE \$44,711.97)" (NYSCEF Doc 16).

On October 14, 2021, a Ms. Colina, on behalf of defendants, wrote: "We have these invoices in the system already. . . . Unfortunately, the reason we are behind payment has to do with our lender. The funding was delayed. We are very frustrated with the lender and doing our best to get everyone paid soon. Amit will follow up with you." Amit Khurana, on behalf of defendants, also responded to plaintiff: "I am very sorry for this - our challenges with our financing have not been resolved yet and we will get you paid. I do not have an exact date for you, and I wish I did - but we will get you paid." (NYSCEF Doc 18).

Plaintiff asserts defendants never followed up and never made any payment on the outstanding balance.

The summons and complaint were filed on December 21, 2021.

The time within which defendants may answer or otherwise move to respond to said complaint has expired and has not been extended.

### **PENDING MOTION**

On April 1, 2022, plaintiff moved pursuant to CPLR §3215, for a default judgment against Foundations Group I, Inc, D/B/A Foundations Group, Sumaida + Khurana, LLC, 611 W 56th Street Property LLC, and 609 W 56th Street Development LLC. Defendants have failed to appear or submit opposition.

### **DISCUSSION**

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 [it].” “On 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).

In support plaintiffs submits the affidavit of Judy Eddington, president of plaintiff (NYSCEF Doc 10); the affirmation of Adrienne Levy, Esq. (NYSCEF Doc 20); the agreement and certificate of insurance (NYSCEF Doc 11); copies of invoices (NYSCEF Doc 12,13, and 15); and emails between the parties (NYSCEF Doc 14, 16 – 18).

Plaintiff has establish *prima facie* entitlement to a default judgment for breach of contract and account stated as to Foundations Group I, Inc, D/B/A Foundations Group, Sumaida &

Khurana, LLC, as well as a default judgment for unjust enrichment as against 611 W 56th Street Property LLC, and 609 W 56th Street Development LLC.

**CONCLUSION**

ORDERED that plaintiff's motion seeking a default judgment against defendants Foundations Group I, Inc, D/B/A Foundations Group, Sumaida & Khurana, LLC, 611 W 56th Street Property LLC, and 609 W 56th Street Development LLC is granted; and it is further

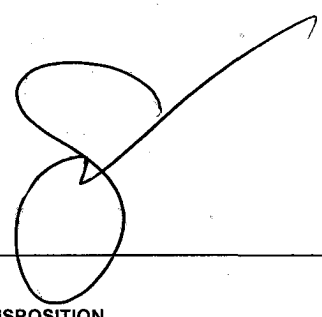
ORDERED that plaintiff is awarded a default judgment in the amount of \$48,003.92, with interest from December 21, 2021; and it is further

ORDERED that the clerk shall enter judgment accordingly; and it is further

ORDERED that, within 20 days from entry of this order, plaintiff shall serve a copy of this order with notice of entry on all defendants at 520 W. 27th St., Suite 302, New York, NY 10001 and the Clerk of the General Clerk's Office (60 Centre Street, Room 119); and it is further

ORDERED that such service upon the Clerk 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](http://www.nycourts.gov/supctmanh)); and it is further

This constitutes the decision and order of the court.



4/19/2022  
DATE

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