

Rael Automatic Sprinkler Co., Inc. v 20 TSQ Groundco LLC
2022 NY Slip Op 31889(U)
June 15, 2022
Supreme Court, New York County
Docket Number: Index No. 160958/2020
Judge: Joel M. Cohen
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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RAEL AUTOMATIC SPRINKLER COMPANY, INC.,

INDEX NO. 160958/2020

Plaintiff,

MOTION DATE 02/28/2022

- v -

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

20 TSQ GROUND CO LLC, CNY CONSTRUCTION 701 LLC, NATIXIS REAL ESTATE CAPITAL LLC, NATIXIS, NEW YORK BRANCH, NEW YORK TUBS, LLC, FACADE TECHNOLOGY, LLC, HARDER SERVICES, INC., SIGNATURE METAL AND MARBLE MAINTENANCE, LLC, TEXAS SCENIC COMPANY, INC., PENGUIN MAINTENANCE AND SERVICES, INC., SOLAR ELECTRIC SYSTEMS, INC., A.F. SUPPLY CORP., TREX COMMERCIAL PRODUCTS, INC., SAFWAY ATLANTIC, LLC, B.A.C.C. BUILDERS INC., LIF INDUSTRIES, LLC, CUMMING MANAGEMENT GROUP, INC., LIVINGSTON ELECTRICAL ASSOCIATES, INC., PGS MILLWORK, INC., TRANSCONTINENTAL CONTRACTING, INC., ARGOSY DESIGNS INC., AMERICAN INDUSTRIES CORP. OF NEW YORK, UNITED STATES INFORMATION SYSTEMS, INC., PLATT BYARD DOVELL WHITE ARCHITECTS L.L.P., ASPRO PLUMBING INC., DESIMONE CONSULTING ENGINEERING GROUP, LLC, CONSOLIDATED CARPET WORKROOM, LLC, BLONDIE'S TREEHOUSE INCORPORATED, PARAMOUNT PAINTING GROUP, LLC, DOOR AUTOMATION CORP., SMARTWOOD INTERNATIONAL LLC, E. FRIEDMAN ASSOCIATES, INC., INFINITE SAFETY, QUALITY, AND CONSTRUCTION MANAGEMENT INC., ULE GROUP CORP., TETRA TECH ENGINEERS ARCHITECTS & LANDSCAPE ARCHITECTS, P.C. D/B/A COSENTINI ASSOCIATES, D3 LED, LLC, NAVILLUS TILE, INC., FACADE MAINTENANCE SYSTEMS LLC, OTIS ELEVATOR COMPANY, R&S UNITED SERVICES, INC., JEROME ALUMINUM PRODUCTS CORP., MONTBLEAU & ASSOCIATES, INC., MARAGOS PAINTING LLC, NEXT STEP DESIGN, JANTILE INCORPORATED, JOHN DOE 1 THROUGH 10, 20 TSQ LESSEE LLC, 701 SEVENTH PROPERTY OWNER LLC, THE WITKOFF GROUP, BURO HAPPOLD CONSULTING ENGINEERS, P.C., KINGS COUNTY WATERPROOFING CORP., SERVICE GLASS & STORE FRONT CO., INC., METAL SALES CO., INC., CORD CONTRACTING CO. INC.

Defendants.

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 241, 244, 246

were read on this motion for

DEFAULT JUDGMENT

Plaintiff Rael Automatic Sprinkler Company, Inc. ("Rael"), moves for default judgment pursuant to CPLR § 3215 against Defendants (i) New York Tubs; LLC; (ii) Signature Metal And Marble Maintenance, LLC; (iii) Trex Commercial Products, Inc.; (iv) B.A.C.C. Builders Inc.; (v) Transcontinental Contracting, Inc.; (vi) Desimone Consulting Engineering Group, LLC.; (vii) Paramount Painting Group, LLC; (viii) Door Automation Corp.; (ix) Smartwood International LLC.; (x) E. Friedman Associates, Inc.; (xi) Façade Maintenance Systems LLC.; (xii) R & S United Services, Inc.; (xiii) Montbleau & Associates, Inc.; (xiv) Maragos Painting LLC.; (xv) Next Step Design; and (xvi) Jantile Incorporated for failure to timely appear, answer, or otherwise move with respect to the Complaint. Plaintiff seeks a declaration that the defaulting defendants be forever foreclosed of all equity of redemption or other interest in the Premises located at 701 Seventh Avenue, New York, New York 10036 (Block 1000, Lot 001) (*see* NYSCEF 200).

Since the filing of this motion, Plaintiff has made a request to withdraw the motion with respect to defendants Paramount Painting Group LLC, Desimone Consulting Engineering Group, LLC, Transcontinental Contracting, Inc., and E. Friedman Associates, Inc., and B.A.C.C. Builders Inc. (*see* NYSCEF 241, 244, 246). These defendants have either filed an answer or requested an extension to which Plaintiff has consented (*see id*).

With respect to the remaining Defendants, who remain subject to this motion, Plaintiff has submitted un rebutted evidence demonstrating compliance with the requirements of CPLR

3215. Plaintiff has established a prima facie case by submitting the verified complaint, the mechanics lien documents, notices and affidavits of service on defendants, and affidavits in support of the motion (*see* NYSCEF 198, 199, 201, 203, 205). Plaintiff adequately filed two affidavits in support of the motion for a default judgment by Kevin Cuneo-Tomasi, attorney for plaintiff Rael, and Michael Glass, Accounts Receivable Manager of Rael (*see* NYSCEF 198-99). Finally, Plaintiff has submitted proof that those Defendants were duly served with copies of the Summons and Verified Complaint and proof that Defendants failed to answer or appear (*see* NYSCEF 201, 205).

Defendants may seek a vacatur of the instant default judgment if they can satisfy the requirements of CPLR § 5015, CPLR § 317, or any other relevant law.

Accordingly, it is:

ORDERED that Plaintiff's Motion is **granted in part**, and the Clerk of the Court is directed to enter a judgment in favor of Plaintiff declaring that Defendants New York Tubs LLC, Signature Meal and Marble Maintenance LLC, Penguin Maintenance and Services Inc., Trex Commercial Products Inc., Door Automation Corp., Façade Maintenance Systems LLC, R&S United Services Inc., Jantille Incorporated, Next Step Design, Montbleu & Associates Inc., Maragos Painting LLC, and each of them and all persons claiming under them are forever foreclosed of all equity of redemption or other interest in the property located at 701 Seventh Avenue, New York, New York 10036 (Block 1000, Lot 001); and it is further

ORDERED that Plaintiff's Motion for default judgment against Defendants Paramount Painting Group LLC, Desimone Consulting Engineering Group, LLC, Transcontinental Contracting, Inc., and E. Friedman Associates, Inc., and B.A.C.C. Builders Inc. is **denied as moot**; and it is further

ORDERED that Plaintiff's counsel shall serve a copy of this order with notice of entry on Defendants within five (5) days from the date of this Order.

This constitutes the Decision and Order of the Court.

6/15/2022

DATE

CHECK ONE:

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CASE DISPOSED

☐

GRANTED

☐

DENIED

APPLICATION:

☐

SETTLE ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

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NON-FINAL DISPOSITION

☒

GRANTED IN PART

☐

OTHER

☐

SUBMIT ORDER

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE

20220615170536JMC0H3NF00F226905F844059E88488F317F10F1

JOEL M. COHEN, J.S.C.