

Jasper Venture Group LLC v RusLetter.com
2022 NY Slip Op 32053(U)
July 1, 2022
Supreme Court, New York County
Docket Number: Index No. 161983/2019
Judge: Sabrina Kraus
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. SABRINA KRAUS PART 57TR

Justice

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JASPER VENTURE GROUP, LLC, ILIO MAVLYANOVA,
STELLA MAVLYANOV, HANAN MAVLYANOV,

Plaintiff,

INDEX NO. 161983/2019

MOTION DATE N/A

MOTION SEQ. NO. 001

- v -

RUSLETTER.COM, XYZ CORP., ABC LLC, JOHN DOES
NO. 1 TO 50, JANE DOES NO. 1 TO 50

Defendant.

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 16, 17, 18, 19, 20,
21, 22, 23, 24, 25, 26

were read on this motion to/for. JUDGMENT - DEFAULT

BACKGROUND

This action arises out of alleged defamatory statements published on a website.

Plaintiffs are family members, with Stella Mavlyanova the mother of both Ilio and Hanan Mavlyanov. Stella Mavlyanova was formerly married to Igor Mavlyanov, former owner and president of a Russian jewelry business, and father to both Ilio and Hanan Mavlyanov. Stella Mavlyanova and Igor Mavlyanov divorced in 2013.

The Defendant is a website with a domain owner that is currently unknown.

Plaintiffs allege they have suffered from claims that they, their companies, and their actions were fraudulent and associated with purported business fraud allegedly committed in Russia by Igor Mavlyanov. Plaintiffs allege Defendant has published multiple articles that contain false statements and/or made false implications about Plaintiffs, purporting to tie them to the alleged business fraud. Even though Defendant was given an opportunity to remove the defamatory articles, it has not done so to date. These articles affect the reputation of the

Plaintiffs, making it difficult for Plaintiffs to conduct business and interfering with relationships with potential lenders, partners, and investors. The articles were published on the website RusLetter.com on July 12, 2016 and October 21, 2016.

The summons and complaint were filed on December 11, 2019.

At the time of the filing of the Complaint, Plaintiffs assert that despite diligent searches, the only information Plaintiffs had uncovered regarding the identity of RusLetter.com was tied to a WhoIs search of the website. According to the WhoIs search, <http://www.fastdomain.com> is the website's registrar, and the registrant's organization is listed as Endurance International Group, Inc., 70 Blanchard Road, Burlington, Massachusetts 01803.

After filing the Complaint, counsel for Plaintiffs contacted fastdomain.com, which directed Plaintiffs to contact legal@bluehost.com (Bluehost). Counsel for Plaintiffs sent an email to Bluehost, informing them of the litigation, attaching copies of the filed Summons and Complaint, and asking the legal department if they could either accept service on behalf of RusLetter.com or inform Plaintiffs of an alternative means of reaching RusLetter.com. Bluehost suggested obtaining the information from Cloudflare, Inc. (Cloudflare) who was identified as RusLetter.com's hosting company. Accordingly, Plaintiffs served Cloudflare with a subpoena duces tecum on January 22, 2020.

Plaintiffs assert Cloudflare's response to the subpoena duces tecum did not provide the identity of RusLetter.com. The production provided only an additional e-mail address that were associated with the owner or owners of RusLetter.com.

On June 2, 2020, the court (Kaplan, J) signed an Ex Parte Order allowing for alternative service on Defendant by sending a copy of the Summons and Complaint to Defendant via email to two different email addresses and extended the service deadline to September 30, 2020.

On July 28, 2020, Plaintiff filed an Affirmation of Service affirming Defendants were served by email on June 19, 2020.

Defendants have failed to appear or file an answer.

PENDING MOTION

On September 8, 2020, Plaintiff moved for an order, pursuant to CPLR §3215, granting a default judgment against RusLetter.com. Defendant failed to appear or submit opposition.

On February 18, 2022, the court (D'Auguste, J) issued an order for Plaintiff to brief the issue of jurisdiction over Defendant and ordering a conference with the court on June 30, 2022.

On April 11, 2022, Plaintiff filed a letter brief on the issue of jurisdiction.

On June 30, 2022, only Plaintiff appeared for the virtual conference and the court reserved decision.

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).

Plaintiff alleges Defendant published an article with a listed date of July 12, 2016 entitled "Russian banks reached for Igor Mavlyanov's family foreign assets in the US" (July 12, 2016 Article). Plaintiff Ilio Mavlyanov alleges the July 12, 2016 Article made numerous defamatory statements about him, his company, his mother, and his brother in attempting to falsely depict their assets and property transfers as fraudulent and/or illegal. The sale of one property in

Manhattan is described as a transfer that "could also be a sham[.]" By using scare quotes around the word "buyers" and describing those buyers as "long-standing family business partners . . . in no hurry to take ownership", Plaintiffs allege RusLetter.com implies that the property transfer was fraudulent. The sale of two California properties are similarly described, casting false aspersions on the Plaintiffs. One property, described by RusLetter.com as a "mansion" in California, is implied to have been fraudulently conveyed because of the registered addresses of other Mavlyanov businesses. A second property, located in Beverly Hills, is also implied to have been fraudulently conveyed, with RusLetter.com using "dummy" and "sham" to describe several businesses sharing an address with the company to which the property was transferred.

Plaintiffs allege Defendant also published an article with a listed date of October 21, 2016 entitled "Mavlyanov clan hid money from [a Russian bank] in the American Real estate" (October 21, 2016 Article). The October 21, 2016 Article goes even further to depict Ilio Mavlyanov, his company, his mother, and his brother in a negative light through defamatory statements tying them to fraudulent and illegal activities. The title itself explicitly-and falsely-states that the family hid money in the United States to keep it from a Russian bank. Four paragraphs into the article, RusLetter.com rhetorically asks "where did Mavlyanova family were [sic] the funds and how they ended up [sic] in the United States?"

On November 11, 2019, Plaintiffs, through counsel, wrote to Defendant informing it that the July 12, 2016 and October 21, 2016 Articles contained defamatory statements and demanding the articles be removed. Plaintiffs assert Defendant did not respond.

Plaintiff now seeks a default judgment stating that the articles were defamatory and must be removed from RusLetter.com, Plaintiffs are not seeking any monetary damages.

New York's long-arm statute has limited applicability in defamation cases, since it is intended "to avoid unnecessary inhibitions on freedom of speech or the press." *Gary Null & Associates v Phillips*, 29 Misc 3d 245 citing to *Legros v. Irving*, 38 A.D.2d 53, 55, 327 N.Y.S.2d 371 (1st Dept.1971), app. dism. 30 N.Y.2d 653, 331 N.Y.S.2d 673, 282 N.E.2d 626 (1972); accord *SPCA of Upstate New York, Inc. v. American Working Collie Association*, 74 A.D.3d 1464, 903 N.Y.S.2d 562 (3rd Dept.2010).

As the court in *Gary Null, supra*, indicated, CPLR 302(a)(2) and (3) specifically excludes defamation claims, the only option is CPLR 302(a)(1). In 2007, the Court of Appeals founds that, "[w]hile no New York appellate court has yet explicitly analyzed a case of website defamation under the "transact[ing] business" provision of section 302(a)(1), several federal district courts in New York have. Consistent with the principles developed in the New York cases discussed above, these courts have concluded that the posting of defamatory material on a website accessible in New York does not, without more, constitute "transact[ing] business" in New York for the purposes of New York's long-arm statute." *Best Van Lines, Inc. v. Walker*, 490 F.3d 239, 250 (2nd Cir.2007).

Plaintiff is unable to establish Defendant transacts business in New York more than posting an alleged defamatory statement on the website that is available in New York and is thus unable to establish personal jurisdiction over Defendant.

CONCLUSION

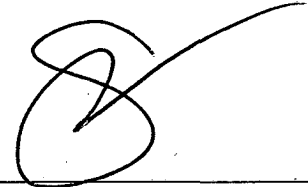
Wherefore, it is hereby

ORDERED Plaintiffs' motion for a default judgment is denied, for lack of personal jurisdiction; 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 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).



7/1/2022
DATE

SABRINA KRAUS, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: