

**Odgie v Gateway Sec. Guard Servs. Inc.**

2023 NY Slip Op 32073(U)

June 12, 2023

Supreme Court, New York County

Docket Number: Index No. 158218/2018

Judge: Leslie A. Stroth

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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. LESLIE A. STROTH PART 12

Justice

-----X

GARRADO ODIGIE,

Plaintiff,

- v -

GATEWAY SECURITY GUARD SERVICES INC., PETER O.  
EROMOSELE, MONDAY O. EROMOSELE

Defendant.

-----X

INDEX NO. 158218/2018

MOTION DATE 03/12/2021

MOTION SEQ. NO. 004

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 004) 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94

were read on this motion to/for

JUDGMENT - DEFAULT

On March 12, 2021, Justice Barbara Jaffee granted the instant motion for a default judgment with respect to plaintiff's causes of action for unpaid overtime pay and related damages but denied the motion as to his claim for unpaid wages, unpaid vacation time, damages under the Wage Theft Protection Act, and/or liability against the individual defendants. See NYSCEF doc. no. 94.

On February 14, 2023, the Appellate Division reversed Justice Jaffe's decision, reinstating the complaint "as against the individual defendants, and [granting] plaintiff's motion...on liability as to these additional claims against all defendants, with damages to be determined after the assessment ordered by the Supreme Court." See NYSCEF doc. no. 111 at 1. Therefore, the matter is now referred to a Judicial Hearing Officer (JHO) or Special Referee to hear and determine the extent of plaintiff's damages.

This matter having come on before this court on February 14, 2023, following remittur, on motion of the plaintiffs for a default judgment against defendants, and, pursuant to CPLR 4212,

the court having on its own motion determined to consider the appointment of a referee to determine as follows, and it appearing to the court that a reference to hear and determine is proper and appropriate pursuant to CPLR 4317 (b) that an issue of damages separately triable and not requiring a trial by jury is involved, it is now hereby

ORDERED that a Judicial Hearing Officer (JHO) or Special Referee shall be designated to determine the following individual issues of fact, which are hereby submitted to the JHO/Special Referee for such purpose:

(1) the issue of damages due to plaintiff for his cause of action for unpaid overtime and related damages;

(2) the issue of damages due to plaintiff for his cause of action for unpaid wages;

(3) the issue of damages due to plaintiff for his cause of action for unpaid vacation time;

(3) the issue of damages due to plaintiff for his cause of action under the Wage Theft Protection Act for failure to provide him with wage statements; and

(4) the issue of damages due to plaintiff for his cause of action for unpaid vacation time; and it is further

ORDERED that the powers of the JHO/Special Referee shall not be limited beyond the limitations set forth in the CPLR; and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this court at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh) at the "References" link ), shall assign this matter at the initial appearance to an available JHO/Special Referee to determine as specified above; and it is further

ORDERED that counsel shall immediately consult with one another and counsel for plaintiff shall, within 15 days from the date of this Order, submit to the Special Referee Clerk by (212-401-9186) or e-mail ([spref@nycourts.gov](mailto:spref@nycourts.gov)) an Information Sheet (accessible at the "References" link on the court's website) containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise counsel for the parties of the date fixed for the appearance of the matter upon the calendar of the Special Referees Part; and it is further

ORDERED that the plaintiff shall serve a proposed accounting within 24 days from the date of this order and the defendant(s)/respondent(s) shall serve objections to the proposed accounting within 20 days from service of plaintiff papers and the foregoing papers shall be filed with the Special Referee Clerk prior to the original appearance date in Part SRP fixed by the Clerk as set forth above; and it is further

ORDERED that the parties shall appear for the referenced hearing, including with all witnesses and evidence they seek to present, and shall be ready to proceed with the hearing, on the date fixed by the Special Referee Clerk for the initial appearance in the Special Referees Part, subject only to any adjournment that may be authorized by the Special Referees Part in accordance with the Rules of that Part; and it is further

ORDERED that, except as otherwise directed by the assigned JHO/Special Referee for good cause shown, the trial of the issues specified above shall proceed from day to day until completion and counsel must arrange their schedules and those of their witnesses accordingly; and it is further

ORDERED that counsel shall file memoranda or other documents directed to the assigned JHO/Special Referee in accordance with the Uniform Rules of the Judicial Hearing Officers and

the Special Referees (available at the "References" link on the court's website) by filing same with the New York State Courts Electronic Filing System (see Rule 2 of the Uniform Rules).

This constitutes the order of the Court.

6/12/2023

DATE

  
LESLIE A. STROTH, 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