

Medallion Bank v Aleka Taxi Inc.

2023 NY Slip Op 32209(U)

June 30, 2023

Supreme Court, New York County

Docket Number: Index No. 654382/2022

Judge: Arlene P. Bluth

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 14

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MEDALLION BANK, MEDALLION FINANCIAL CORP.,

Plaintiffs,

- v -

ALEKA TAXI INC.,ANGUS CAB CORP., BLUE EYE ALEX
LLC,ELIAS TAXI INC.,ELYSE CAB CORP., FANY CAB
CORP., FASHION OLIVIA LLC,FLY BY NIGHT TRANS
INC.,GOLD ONE CAB CORP., JACKIE NUMBER ONE
LLC,JOLENE CAB CORP., KRISSY LLC,LIGHT CAB
CORP., LITTLE KOSTA LLC,MBH CAB CORP.,
MICHELLE TAXI INC.,OVERTRAN INC.,PENTELI CAB
CORP., PLATFORM TAXI SERVICE INC.,RANIA CAB
CORP., TALKALOT GEORGE LLC,AGAPE-MOU CAB
CORP., ASTERIK CAB CO. INC.,COPPER ONE CAB
CORP., ELA PAPOU LLC,AMME TAXI INC.,SASSY
SOPHIA LLC,330 MCGUINNESS, LLC,BARBARA
SKENDERIS, GUS KODOGIANNIS, MARIA
KODOGIANNIS

Defendants.

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HON. ARLENE P. BLUTH:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52

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

Plaintiffs’ motion for summary judgment is granted and defendants’ cross-motion is denied.

Background

The case arises out of a contractual dispute where defendants (comprised of loan borrowers, individual obligors, and corporate guarantors) pledged New York City Taxi Medallions (“medallions”) as security for loans from plaintiffs. The loan documents required that in the event of a default, the defendants would surrender the medallions to plaintiffs (each defendant owned two medallions). In July 2022, plaintiffs sent demand letters to the individual

obligors (Barbara Skenderis, Gus Kodogiannis, and Maria Kodogiannis) advising them that they were in default. In October 2022, plaintiffs and the defendants entered into a settlement agreement where the defendants would make certain payments and allegedly surrender the medallions in order to resolve the default. The instant dispute is which medallions must be surrendered.

Plaintiffs complain that the 12 medallions owned by the six corporate guarantors (defendants Agape-Mou Cab Corp., Asterik Cab Co. Inc., Copper One Cab Corp., Ela Papou LLC, Amme Taxi Inc., and Sassy Sophia LLC) should have been turned over under the terms of the settlement agreement. Plaintiffs insist that the return of the medallions was an integral part of the settlement and they would not have entered into the agreement without the promise that they would receive these medallions. They acknowledge that they have received the medallions from the other defendants.

Defendants Agape-Mou Cab Corp., Asterik Cab Co. Inc., Copper One Cab Corp., Ela Papou LLC, Amme Taxi Inc., and Sassy Sophia LLC (“Corporate Guarantors”) cross-move for summary judgment. In opposition and in support of their cross-motion, they acknowledge that the medallions they owned were pledged as collateral in the event of a default by the borrowers. But they insist that although the due date for payoff of each of the 21 loans had passed, the parties were engaged in settlement negotiations and they were making interest payments.

The Corporate Guarantors emphasize that the reference to the medallions in the eventual settlement agreement yields the clear interpretation that they refer only to the medallions secured by the 21 loans, which does not include their medallions. They claim that because the settlement is ambiguous as to which medallions were encompassed in the agreement, the Court should look

to extrinsic evidence, namely an email in which plaintiffs' counsel purportedly agreed that only the 21 borrower corporations' Medallions would be subject to surrender.

In reply, plaintiffs argue that the terms of the settlement agreement itself are unambiguous and the Corporate Guarantors unequivocally guaranteed to ensure payment for the loans and pledged their Medallions as collateral. Plaintiffs contend that the settlement agreement references lenders and obligors, who are expressly defined to include the Corporate Guarantors. Plaintiffs further argue that the settlement agreement is unambiguous and the use of extrinsic evidence is barred by the parole evidence rule and the merger clause contained in the agreement.

Plaintiffs contend that the surrender of the medallions was a material term of the settlement agreement and without such a term, plaintiffs would never have approved the settlement agreement. As for the August 2022 email emphasized by defendants, plaintiffs argue that their response was to clarify which potential signatories were on the loans they were referencing for settlement discussions.

Discussion

To be entitled to the remedy of summary judgment, the moving party "must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact from the case" (*Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853, 487 NYS2d 316 [1985]). The failure to make such a prima facie showing requires denial of the motion, regardless of the sufficiency of any opposing papers (*id.*). When deciding a summary judgment motion, the court views the alleged facts in the light most favorable to the non-moving party (*Sosa v 46th St. Dev. LLC*, 101 AD3d 490, 492 [1st Dept 2012]).

Once a movant meets its initial burden, the burden shifts to the opponent, who must then produce sufficient evidence to establish the existence of a triable issue of fact (*Zuckerman v City of New York*, 49 NY2d 557, 560, 427 NYS2d 595 [1980]). The court’s task in deciding a summary judgment motion is to determine whether there are bonafide issues of fact and not to delve into or resolve issues of credibility (*Vega v Restani Constr. Corp.*, 18 NY3d 499, 505, 942 NYS2d 13 [2012]). If the court is unsure whether a triable issue of fact exists, or can reasonably conclude that fact is arguable, the motion must be denied (*Tronlone v Lac d’Amiante Du Quebec, Ltee*, 297 AD2d 528, 528-29, 747 NYS2d 79 [1st Dept 2002], *affd* 99 NY2d 647, 760 NYS2d 96 [2003]).

The Court grants plaintiffs’ motion and denies the cross-motion. The settlement agreement states that “Borrowers and Guarantors are hereinafter collectively referred to as ‘Obligors’” (NYSCEF Doc. No. 39 at 1). The Corporate Guarantors are specifically included as Obligors in the settlement agreement. The Obligors (including the Corporate Guarantors) “are parties to certain promissory notes... security agreements... and guaranties. . . evidencing the following loans[.]” (*id.*).

In this settlement agreement, the parties agreed that the obligors “voluntarily transfer, convey and assign to Lenders all of Obligors’ legal, equitable and beneficial right, title and interest in and to the Medallions free and clear of any and all associated liens or encumbrances other than Lenders” (*id.* at 4). Medallions are defined in the settlement agreement in a provision stating that “WHEREAS, each of the Loans were secured by, among other things, New York City taxi medallions” (*id.* at 2). The security agreement related to the Corporate Guarantors specifically provides that they were pledging their medallions as part of the guaranty (NYSCEF Doc. No. 28 at 260-61). The security agreement’s schedule even specifically identifies the

medallions owned by the Corporate Guarantors (*id.* at 275-76). Taken together, the Court finds that there was an unambiguous intention to include the Corporate Guarantors' medallions as part of the settlement.

The Court recognizes that the Corporate Guarantors claim that they would not have entered into this settlement agreement if they thought that their medallions would be a part of the agreement. They emphasize that they made payments of over \$5 million towards the loan. However, those payments appear to interest payments made in connection with settlement negotiations. As described by the Corporate Guarantors, these payments were made while plaintiffs refrained from commencing an action against all defendants on the loans. The Corporate Guarantors do not insist that they paid off these loans or that there was some other agreement in which they made these payments in exchange for keeping their medallions. And this Court cannot insert that term in the settlement agreement. Nor can the Court bind plaintiffs based upon an email from counsel for plaintiffs, which itself does not make any representation that the Corporate Guarantors' medallions are excluded from the settlement agreement. And the settlement agreement contains a merger clause.

The Corporate Guarantors also insist that the definition of medallions is ambiguous because it references the 21 loans, loans for which they were not parties. Certainly, the definition for medallions would have been clearer had it included a specific reference to the Corporate Guarantors' medallions. But the definition cites the medallions that secured the 21 loans and there is no question that the medallions in dispute secured those loans.

Accordingly, it is hereby

ORDERED that plaintiffs' motion seeking summary judgment in plaintiff's favor and a declaratory judgment is granted and defendants' cross-motion is denied; and it is further

DECLARED that plaintiff is entitled to the New York City Taxi Medallions of defendants Agape-Mou Cab Corp., Asterik Cab Co. Inc., Copper One Cab Corp., Ela Papou LLC, Amme Taxi Inc., and Sassy Sophia LLC and these medallions must be surrendered by July 20, 2023; and it is further

ORDERED if defendants fail to surrender the medallions by July 20, 2023, then the Sheriff of any county of the State of New York (or the Marshal of the City of New York if applicable) shall seize the subject medallions, wherever they may be located, and deliver them to plaintiff, upon service upon the Sheriff or Marshal of a certified copy of this order and payment of any associated fees; and it is further

ORDERED that defendants' counterclaims are severed and dismissed; and it is further

ORDERED that the Clerk shall enter judgment in favor of plaintiffs and against defendants with costs and disbursements upon presentation of proper papers therefor.

6/30/2023
DATE


ARLENE P. BLUTH, J.S.C.

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