

Spitz v Life Hotel One LLC

2024 NY Slip Op 30539(U)

February 20, 2024

Supreme Court, New York County

Docket Number: Index No. 652330/2021

Judge: Debra A. James

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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. DEBRA A. JAMES PART 59

Justice

-----X

SAMMY SPITZ, ADAM JAKUBOWICZ, AVIVA
JAKUBOWICZ, CONEY ISLAND AVENUE, LLC, POLINA
INGBERMAN, MICHAEL ROGERS, JOSEPH SAPONARO,
YURY SLEPAK DDS PC, GARY WEKSLER, and RICHARD
EKSTRACT,

INDEX NO. 652330/2021

MOTION DATE 12/07/2021

MOTION SEQ. NO. 001

Plaintiffs,

- v -

**DECISION + ORDER ON
MOTION**

LIFE HOTEL ONE LLC, LUXE LIFE INVESTMENTS LLC,
and LUXE LIFE MANAGEMENT INC.,

Defendants.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 35, 36, 37, 38, 39,
40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 55, 57, 58

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

ORDER

Upon the foregoing documents, it is

ORDERED that the motion pursuant to CPLR 305(c) and 2001 of
plaintiffs to amend the caption of the complaint to correct and
substitute 2464 Coney Island Avenue, LLC for Coney Island Avenue
LLC, plaintiff, is granted, without opposition, and the complaint
is deemed thereby amended upon service of a copy of this order
with notice of entry thereof; and it is further

ORDERED that the answer of defendant Luxe Life Investments
LLC is deemed amended to reflect the name 2464 Coney Island Avenue,
LLC, in place and stead of Coney Island LLC, as plaintiff; and it
is further

ORDERED that the motion of the plaintiffs SAMMY SPITZ, ADAM JAKUBOWICZ, AVIVA JAKUBOWICZ, CONEY ISLAND AVENUE, LLC, POLINA INGBERMAN, MICHAEL ROGERS, JOSEPH SAPONARO, YURY SLEPAK DDS PC, GARY WEKSLER, and RICHARD EKSTRACT, for a default judgment against defendants LIFE HOTEL ONE LLC and LUXE LIFE MANAGEMENT INC., is GRANTED, without any opposition, and the issue of damages to be assessed against such defendants is referred for determination pursuant CPLR 3215 (b) to a Special Referee, and that plaintiffs may submit the proof by written statements of witness in accordance with 22 NYCRR 202.46(b); and it is further

ORDERED, that within thirty (30) days from the date of this Order, plaintiffs shall cause a copy of this order with notice of entry, including proof of service thereof, to be filed with the Special Referee Clerk (Room 119M, 646-386-3028 or spref@nycourts.gov) to arrange a date for a reference to determine pursuant to CPLR 4317 (b); and it is further

ORDERED and ADJUDGED that pursuant to CPLR 3215 (b) the Clerk is directed to enter judgment in favor of plaintiffs and against defendants LIFE HOTEL ONE LLC and LUXE LIFE MANAGEMENT INC. in accordance with the report of the aforementioned Special Referee, together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs, without any further application; and it is further

ORDERED that the remaining claims against the defendant LUXE LIFE INVESTMENTS LLC are severed and shall continue; and it is further

ORDERED that plaintiff shall serve a copy of this order with notice of entry upon the defendant LUXE LIFE INVESTMENTS LLC by regular first-class mail, within ten days of entry of the herein Order; and it is further

ORDERED that the defendant LUXE LIFE INVESTMENTS LLC shall serve an answer to the complaint within fourteen days of such service; and it is further

ORDERED that plaintiffs' counsel and the remaining defendants are directed to post on NYSCEF a proposed preliminary conference order or proposed competing preliminary conference order(s) at least two days before March 21, 2024, on which date counsel or any party appearing on their own behalf shall appear via Microsoft Teams.

DECISION

On this motion, plaintiff has complied with the strictures of CPLR 3215(f), having submitted an affidavit of a person with knowledge of the facts and proof of service upon the defaulting defendants. As there is no opposition to the relief sought by the plaintiff, judgment against the non-appearing defendants is warranted.

However, as the defaulting defendants LIFE HOTEL ONE LLC and LUXE LIFE MANAGEMENT INC. are not signatories to the notes submitted by the plaintiffs, which were executed by Life Hotel Partners LLC, as managing member of Life Hotel Company (NYSCEF Doc. Nos. 3-14), plaintiffs have not prima facie established the amount of damages, which must be determined after an inquest. See Weissman v Sinorm Deli, Inc, 88 NY2d 437, 444-445 (1996).

Debra A. James

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2/20/2024

DATE

DEBRA A. JAMES, 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