

Kozhukhar v Gramercy Park Residence Corp.

2024 NY Slip Op 32124(U)

June 24, 2024

Supreme Court, New York County

Docket Number: Index No. 158376/2022

Judge: Mary V. Rosado

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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. MARY V. ROSADO PART 33M

Justice

-----X

ANDRII KOZHUKHAR,

Plaintiff,

- v -

GRAMERCY PARK RESIDENCE CORP., J & C LAMB
MANAGEMENT CORP., TROJAN INTERIORS INC.,
LCP MANAGEMENT CORP., WORLD CLASS
DEMOLITION CORPORATION, WCD SERVICES CORP,
WORLD CLASS CONTRACTING GROUP INC.,
DR. LAWRENCE OTTAVIANO, and LOWER MANHATTAN
GASTROENTEROLOGY GROUP, P.C. and A.L.
ELECTRICAL CORP.,

Defendants.

-----X

GRAMERCY PARK RESIDENCE CORP., J & C LAMB
MANAGEMENT CORP.

Third-Party Plaintiffs,

-against-

GENERAL COMPANY, INC.,

Third-Party Defendant.

-----X

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595425/2024

The following e-filed documents, listed by NYSCEF document number (Motion 005) 105, 106, 107, 108, 109, 110, 111

were read on this motion to/for JUDGMENT - DEFAULT

Upon the foregoing documents, there being no opposition and good cause having been shown, Plaintiff Andrii Kozhukhar's ("Plaintiff") motion for an Order granting default judgment in favor of Plaintiff and against Defendant A.L. Electrical Corp. ("A.L.") is granted.

An applicant for default judgment against a defendant must submit: (i) proof of service of the summons and complaint, (ii) proof of the facts constituting the claim, and (iii) proof of the

defaulting defendant's failure to answer or appear (*PV Holding Corp v AB Quality Health Supply Corp*, 189 AD3d 645 [1st Dept 2020]). Affidavits submitted in support of a motion for default judgment only need to allege enough facts to allow a court to assess where a viable cause of action exists (*Woodson v Mendon Leasing Corp.*, 100 NY2d 62, 71 [2003]). In undertaking this review, the Court is mindful that "defaulters are deemed to have admitted all factual allegations in the complaint and all reasonable inferences that flow from them (*Al Fayed v Barak*, 39 AD3d 371, 372 [1st Dept 2007]).

The Court finds that Plaintiff has satisfied proof of service by providing an Affidavit of Service evidencing service of the Third Supplemental Summons and Third Amended Complaint upon A.L. through the Secretary of State on November 16, 2023 (NYSCEF Doc. 109). Plaintiff has also satisfied his minimal burden of proving the facts constituting his claim by filing an Affidavit of Merit (NYSCEF Doc. 106). Further, A.L. has failed to file an Answer of otherwise appear in this matter despite their time for doing so having expired.

In light of the foregoing, entry of default judgment as to liability against Defendant A.L. and in favor of Plaintiff on the first and second causes of action asserted in Plaintiff's Third Amended Complaint is appropriate.

Accordingly, it is hereby,

ORDERED that Plaintiff Andrii Kozhukhar's motion for an Order granting default judgment in favor of Plaintiff and against Defendant A.L. Electrical Corp. is granted as to liability on the first and second causes of action asserted in Plaintiff's Third Amended Complaint; and it is further

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ORDERED that an inquest on damages against Defendant A.L. Electrical Corp. on the first and second causes of action asserted in Plaintiff's Third Amended Complaint is directed at the time of trial; and it is further

ORDERED that a copy of this order with notice of entry be served by counsel for Plaintiff Andrii Kozhukhar upon the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who is directed, upon the filing of a note of issue and a certificate of readiness and the payment of proper fees, if any, to place this action on the appropriate calendar for the inquest directed herein; and it is further

ORDERED that such service 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 of the court's website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that the active parties in this case are directed to submit a proposed Status Conference Order to the Court on or before July 30, 2024 via e-mail to SFC-Part33-Clerk@nycourts.gov. If the parties are unable to agree to a proposed Status Conference Order, the parties are directed to appear for an in-person Status Conference with the Court on July 31, 2024 at 9:30 a.m. in 60 Centre Street, Room 442, New York, New York; and it is further

ORDERED that within ten days of entry, counsel for Plaintiff Andrii Kozhukhar shall serve a copy of this Decision and Order, with notice of entry, on all parties to this case; and it is further

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ORDERED that the Clerk of the Court is directed to enter judgment accordingly.

This constitutes the Decision and Order of the Court.

6/24/2024
DATE

Mary V Rosado JSC
HON. MARY V. ROSADO, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input 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