

People v Susana Toys LLC

2024 NY Slip Op 34477(U)

December 24, 2024

Supreme Court, New York County

Docket Number: Index No. 451682/2024

Judge: Andrea Masley

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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PEOPLE OF THE STATE OF NEW YORK, LETITIA
JAMES, ATTORNEY GENERAL OF THE STATE OF NEW
YORK,

Petitioner,

- v -

SUSANA TOYS LLC,

Respondent.

INDEX NO. 451682/2024

MOTION DATE _____

MOTION SEQ. NO. 001 002

**DECISION + ORDER ON
MOTION**

-----X

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 4
were read on this motion to/for DISSOLUTION.

The following e-filed documents, listed by NYSCEF document number (Motion 002) 9, 10, 11, 12, 13
were read on this motion to/for JUDGMENT - DEFAULT.

In motion seq. no. 001, petitioner moves to enjoin respondent Susana Toys LLC from continuing any fraudulent or illegal acts and dissolve respondent. In motion seq. no. 002, petitioner moves, pursuant to CPLR 3215, for a default judgment against defendants. Both applications are unopposed.

“On a motion for a default judgment under CPLR 3215 based upon a failure to answer the complaint, a plaintiff demonstrates entitlement to a default judgment against a defendant by submitting: (1) proof of service of the summons and complaint; (2) proof of the facts constituting its claim; and (3) proof of the defendant's default in answering or appearing.” (*Medina v Sheng Hui Realty LLC*, 2018 WL 2136441, *6-7 [Sup Ct, NY County 2018] [citations omitted].) “Some proof of liability is also required to satisfy the court as to the prima facie validity of the uncontested cause of action. The standard of

proof is not stringent, amounting only to some firsthand confirmation of the facts.”

(*Feffer v Malpeso*, 210 AD2d 60, 61 [1st Dept 1994] [citations omitted].)

Proof of Service

Petitioner submits proof that Integra was served with the petition and supporting documents via the Secretary of State. (NYSCEF 8, aff of service.) The court excuses the additional service requirement of CPLR 3215 (g)(4)(i), which requires mailing a copy of the petition by first class to defendant corporation at its last known address because the address listed for respondent is one for a Susana Petruzsk, who affirms that she is not affiliated with the respondent corporation and her address was used fraudulently. (NYSCEF 3, Petruzsk aff.)

Proof of Claim

CPLR 3215 (f) requires a plaintiff to submit “proof of the facts constituting the claim, the default and the amount due ... by affidavit made by the party.” “Where a verified complaint has been served, it may be used as the affidavit of the facts constituting the claim and the amount due; in such case, an affidavit as to the default shall be made by the party’s attorney.” (CPLR 3215 [f].) Where plaintiff’s counsel has personal knowledge of the facts constituting the action, a complaint verified by counsel is typically a sufficient affidavit of merits to support a 3215 motion. (*State Farm Mutual Auto. Ins. Co. v Rodriguez*, 12 AD3d 662, 663 [2d Dept 2004] [citations omitted].) However, counsel must “set forth the basis of counsel’s personal knowledge of the facts asserted therein.” (*A.B. Med. Servs. PLLC v Travelers Prop. Cas. Corp.*, 6 Misc 3d 53, 54 [App Term 2004] [citations omitted].) Here, the petition is verified by Assistant

Attorney General Oluwadamilola E. Obaro. Petitioner also submits the Petruzsk's affidavit. (NYSCEF 3.)

In the verified petition, petitioner seeks to dissolve the corporate defendant based on the fraudulent filing of articles of organization in which respondent misrepresented the address at which it may receive process from the Secretary of State. Petruzsk's affidavit supports these grounds, as Petruzsk affirms that she is not affiliated with the respondent, did not create the respondent, and that incorporation is a fraud. (*Id.* at 4.) Petitioner has sufficiently presented proof of its claim.

Proof of Default

Respondent has not answered or moved with respect to the petition within the time prescribed by the CPLR. (NYSCEF 28, Obaro aff ¶ 7.)

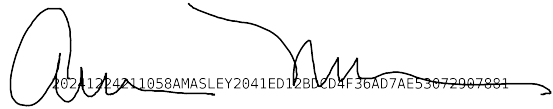
Accordingly, it is

ORDERED that this motion for default is granted as well as the petition for dissolution; and it is further

ORDERED and ADJUDGED that Respondent SUSANA TOYS LLC shall be dissolved for repeated and persistent fraud and illegality in violation of Executive Law § 63(12); and it is further

ORDERED that the Clerk of the Court shall provide a certified copy of this Order and Judgment to the Attorney General, and it is further

ORDERED that the Attorney General shall transmit a certified copy of the Order and Judgment to the Department of State which, by filing a copy of the same, shall dissolve SUSANA TOYS LLC and remove the address and name of the current registered agent from its public records.



12/24/2024
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

APPLICATION:

SETTLE ORDER

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

SUBMIT ORDER

FIDUCIARY APPOINTMENT

REFERENCE