

Harkavy v Friedman

2025 NY Slip Op 32556(U)

July 11, 2025

Supreme Court, New York County

Docket Number: Index No. 651715/2024

Judge: Nicholas W. Moyne

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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. NICHOLAS W. MOYNE **PART** **41M**

Justice

-----X

HARRIET HARKAVY,

Plaintiff,

- v -

LEON FRIEDMAN, KAREN AMUNDSEN

Defendant.

-----X

INDEX NO. 651715/2024

MOTION DATE 11/12/2024

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 16, 17, 18, 19, 20, 21, 22

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

Upon the foregoing documents, it is

Plaintiff, Harriet Harkavy, commenced the underlying action via summons with notice of motion for summary judgment in lieu of complaint to recover amounts allegedly owed by defendants, Leon Friedman and Karen Amundsen, pursuant to a promissory note executed by the parties. Motion Sequence 001, the plaintiff’s CPLR § 3213 motion for summary judgment in lieu of complaint against defendants, was denied as it had not been shown that service was proper under CPLR § 313. However, such denial was without prejudice to renew upon the submission of proper proof of a jurisdictional basis.

Accordingly, in Motion Sequence 002, plaintiff renews her motion for an order, pursuant to CPLR § 3213, granting summary judgment in lieu of a complaint in her favor, and against defendants, in the amount of \$225,000.00, plus 3% interest and costs based on a default of obligations on the promissory note. For the reasons set forth below, the motion is granted.

Plaintiff has submitted proof demonstrating that service on the defendants was proper, in accordance with the requirements of CPLR § 313, and therefore, this court has jurisdiction

(compare *Peralta v City of New York*, 206 AD3d 415, 416 [1st Dept 2022] [where a defendant was not properly served and made no appearance in an action, jurisdiction has not been obtained and there is no basis to enter judgment]). While CPLR § 313 permits out-of-state service on a non-domiciliary defendant, it does so only if that party is subject to the jurisdiction of the courts of the state under CPLR §§ 301 or 302 (see *Am. Exp. Travel Related Services Co., Inc. v Synergy Healthcare Services, L.L.C.* [Sup Ct, NY County 2023]). In her affirmation, plaintiff has provided allegations connecting the conduct, including Friedman’s contact with plaintiff to secure a loan for him and Amundsen, exchange and delivery of the note and funds, and the plaintiff’s claim, to New York (see *Matter of New York Asbestos Litig.*, 212 AD3d 584, 586 [1st Dept 2023]). These allegations are sufficient to show a basis for jurisdiction, under CPLR § 301(a)(1) and CPLR § 313, for Friedman and Amundsen, his power of attorney and co-signor on the note (*Bangladesh Bank v Rizal Commercial Banking Corp.*, 226 AD3d 60, 80 [1st Dept 2024]).

Additionally, plaintiff has established prima facie entitlement to summary judgment in lieu of complaint on her claims. “CPLR 3213 provides an accelerated procedure for commencement and pursuit of an action where a right to payment can be ascertained from the face of a document, without regard to extrinsic evidence” (*Matas v Alpargatas S.A.I.C.*, 274 AD2d 327, 328 [1st Dept 2000]). “The prototypical example of an instrument within the ambit of [CPLR 3213] is ... a negotiable instrument for the payment of money – an unconditional promise to pay a sum certain, signed by the maker and due on demand or at a definite time” (*PI Finance v Evergreen Builders & Construction Services, Inc.*, 232 AD3d 549, 550 [1st Dept 2024], quoting *Weissman v Sinorm Deli, Inc.*, 88 NY2d 437, 444 [1996] [internal quotations omitted]).

To establish prima facie entitlement to judgment as a matter of law based on a promissory note, plaintiff must show the existence of a promissory note, executed by the defendants, that contains an unequivocal and unconditional obligation to repay, and the failure of the defendants to pay in accordance with the note's terms (*Zyskind v FaceCake Mktg. Tech., Inc.*, 101 AD3d 550, 551 [1st Dept 2012]). Here, plaintiff has met her prima facie burden by providing proof of the promissory note, signed by Friedman and Amundsen (NYSCEF Doc. No. 18), the Demand Note (NYSCEF Doc. No. 19), and defendants' failure to pay according to the terms (*see Frydco Capital Group, LLC v Park Rio East, LLC*, 226 AD3d 474, 474 [1st Dept 2024]; *Navon v Jackson*, 191 AD3d 578, 578 [1st Dept 2021]; *Wachovia Bank, N.A. v Silverman*, 84 AD3d 611, 612 [1st Dept 2011]).

Accordingly, it is hereby

ORDERED that the motion by plaintiff, Harriet Harkavy, for summary judgment in lieu of complaint is GRANTED; and it is further

ORDERED and ADJUDGED that the Clerk of the Court is directed to enter judgment in favor of plaintiff, Harriet Harkavy, with their legal representative having an address of Attn: Jeffrey Schreiber, Esq., Meister Seelig and Fein LLP, 125 Park Avenue, 7th Floor, New York, NY 10017, and against defendants, Leon Friedman and Karen Amundsen, both with an address of 525 Main Street, Unit I, Amesbury, MA 01913, jointly and severally, in the principal amount of \$225,000.00, together with interest at the rate of 3% per annum from the date of December 12, 2017, until the date of the decision and order on this motion, and thereafter at the statutory rate, as calculated by the Clerk in the amount of \$_____, together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs, in the

amount of \$ _____, for a total judgment amount of \$ _____, and that the plaintiff have execution thereof.

This constitutes the decision, order, and judgment of the court.


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7/11/2025
DATE

NICHOLAS W. MOYNE, J.S.C.

| DATE | | | CLERK |
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| CHECK ONE: | <input checked="" type="checkbox"/> | CASE DISPOSED | <input type="checkbox"/> |
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| | | <input type="checkbox"/> DENIED | <input type="checkbox"/> |
| APPLICATION: | <input type="checkbox"/> | SETTLE ORDER | <input type="checkbox"/> |
| CHECK IF APPROPRIATE: | <input type="checkbox"/> | INCLUDES TRANSFER/REASSIGN | <input type="checkbox"/> |
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