

**JUN Group Prods. LLC v Mundo Hispano Digital,
Inc.**

2025 NY Slip Op 32829(U)

July 28, 2025

Supreme Court, New York County

Docket Number: Index No. 160189/2024

Judge: Emily Morales-Minerva

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This opinion is uncorrected and not selected for official publication.

(CPLR § 3215 [a]). Among other things, to succeed on a motion for a default judgment, the proponent of such application must file proof of service of the summons and complaint on the defaulting party (see CPLR § 3215 [f]).

It is black letter law that, as defendant MUNDO HISPANO DIGITAL, INC. is an authorized foreign corporation, "personal service upon [it] . . . shall be made by delivering the summons . . . to an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or by law to receive service" on its behalf (CPLR § 311; see also BCL § 306). Since the statute requires "actual delivery to the proper person [authorized to receive process for the corporation], delivery to a corporate employee not listed in CPLR § 311 (subd 1) will not normally provide personal jurisdiction over the defendant corporation" (Fashion Page, Ltd. v Zurich Ins. Co., 50 NY2d 265, 274 [1980]; see also generally Phipps SC, LLC v Carvajal, 2025 NY App Div LEXIS 1270 [1st Dept 2025] [relying on Fashion Page, 50 NY2d at 273, in determining proper service]; Matter of Jiggetts v MTA Metro-N.R.R., 121 AD3d 414, 414 [1st Dept 2014] [providing that CPLR § 311 (a) (1) requires that the process server tender process directly to an authorized corporate representative]).

Here, plaintiff's affidavit of service does not purport to have effectuated service on "an officer, direct, managing or

general agent, or cashier or assistant cashier [of defendant MUNDO HISPANO DIGITAL, INC.] authorized to receive service" (emphasis added) (CPLR § 311). Instead, the affidavit of service avers that process server delivered the summons and complaint to "Jessica Valeriani, who identified herself as the Manager" (NYSCEF Doc. No. 005, Affidavit of Service). The fact that "Jessica Valeriani" identified herself as the "manager" does not equate to an affirmation that "Jessica Valeriani" held herself out to be an agent authorized to receive service of the summons and complaint for purposes of this Court acquiring personal jurisdiction over defendant (see Glob. Connect Strategic Voice Broadcasting, Corp. v Oxford Collection Agency, Inc., 50 AD3d 737 [2d Dept 2008] [finding that plaintiff's service of process upon defendant corporation did not comply with CPLR § 311 (a)(1) where there was no indication that the recipient of the summons and complaint made any representation to the process server of having authority to receive service on behalf of the defendant]; see also Banks v New York City Tr. Auth., 216 AD3d 449, 449 [1st Dept 2023]; Borello v Trustees of Cent. Pres. Church, 233 AD2d 212 [1st Dept 1996]).

Further, "CPLR § 3215 does not contemplate that default judgments are to be rubber-stamped once jurisdiction and a failure to appear have been shown. Some proof of liability is also required to satisfy the court as to the prima facie

validity of the uncontested cause of action" (Welz v Brown, 228 AD3d 416, 418 [1st Dept 2024]; Joosten v Gale, 129 AD2d 531, 535 [1st Dept 1987]). While the standard of proof necessary to support an application for a default judgment is not stringent, some firsthand confirmation of the facts forming the basis of the claim is necessary (see Feffer v Malpeso, 210 AD2d 60, 61 [1st Dept 1994]; see also Resnick v Lebovitz, 28 AD3d 533 [2d Dept 2006]). "[A] complaint verified by counsel amounts to no more than an attorney's affidavit, and is insufficient to support entry of default judgment" (Feffer, 210 AD2d at 61; see also Gaviola v City of New York, 234 AD3d 525 [1st Dept 2025]).

Notwithstanding the defect addressed above, plaintiff submits neither a complaint verified by plaintiff nor an affidavit of a person with personal knowledge of the facts constituting the claims. The affidavit of Marc Melzer, Division General Counsel of plaintiff, and the complaint verified by Robert D. Goldhaber, counsel of record, are insufficient to satisfy this requirement (Guzetti v City of New York, 32 AD3d 234, 236 [1st Dept 2006]; see also William v N. Shore LIJ Health Sys., 119 AD3d 937 [2nd Dept 2014] [plaintiff failed to proffer affidavit of the facts by a party with personal knowledge as required by CPLR § 3215 (f)]).

Accordingly, it is hereby

ORDERED that plaintiff's motion (seq. no. 001), pursuant to CPLR § 3215, for a default judgment, against defendant MUNDO HISPANO DIGITAL, INC. is dismissed without prejudice; and it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

7/28/2025

DATE

Emily Morales-Minerva
EMILY MORALES-MINERVA, 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