

Easyship Inc. v Zeng

2025 NY Slip Op 32843(U)

August 4, 2025

Supreme Court, New York County

Docket Number: Index No. 161289/2024

Judge: Arthur F. Engoron

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARTHUR F. ENGORON PART 37

Justice

INDEX NO. 161289/2024

EASYSHIP INC.,

Plaintiff,

MOTION DATE 05/08/2025, 05/20/2025, 05/30/2025

- v -

MOTION SEQ. NO. 001 002 003

ZHI E. ZENG, SAU YEUNG, TEA CULTURE INC., MING LI, V EXPRESS PA, INC., LONG HAO CHEN,

Defendants.

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 44, 45, 46,

were read on this motion to DISMISS

The following e-filed documents, listed by NYSCEF document number (Motion 002) 26, 27, 28, 29, 30, 31, 32, 33, 34,

were read on this motion for a DEFAULT JUDGMENT

The following e-filed documents, listed by NYSCEF document number (Motion 003) 35, 36, 37, 38, 39, 40, 41, 42, 43,

were read on this motion for a DEFAULT JUDGMENT

Upon the foregoing documents, and for the reasons stated hereinbelow, plaintiff's motions for default judgments are denied and plaintiff's motion for summary judgment is granted in part and denied in part as follows.

Background

On December 2, 2024, plaintiff, Easyship Inc., commenced this action against defendants, Zhi E. Zeng ("Zeng"), Sau Yeung, Tea Culture Inc., Ming Li, V Express PA, Inc., and Long Hao Chen, asserting three causes of action: (1) common law fraud against all defendants; (2) for a declaration, pursuant to DCL § 275, that a June 2022 deed transfer by Zeng was a fraudulent conveyance; and (3) pursuant to DCL § 276-a, for attorney's fees. NYSCEF Doc. No. 2.

Plaintiff alleges that, between August and December 2023, defendants defrauded it when they used its services to ship various packages from Hong Kong to the United States and underreported "by 47-48 times the declared weight," costing plaintiff damages of more than \$800,000. Id. Plaintiff also alleges that Zeng is a "serial scammer" with various judgments against him going back to 2018 and that a June 2022 transfer of a property at 1106 Bay Ridge Parkway, Brooklyn, New York (the "Bay Ridge Property") was actually a fraudulent conveyance to avoid Zeng's current and prospective creditors. Id.

On February 27, 2025, plaintiff served process upon Zeng via a John Doe at the Bay Ridge Property, and by mail. NYSCEF Doc. No. 4.

Also on February 27, 2025, plaintiff served process upon Long Hao Chen, also via a John Doe at the Bay Ridge Property, and by mail. NYSCEF Doc. No. 5.

On April 1, 2025, plaintiff served process, pursuant to Business Corporation Law § 306, upon defendant Tea Culture Inc. via the New York Secretary of State. NYSCEF Doc. No. 6.

On April 2, 2025, plaintiff attempted to serve process upon defendant Ming Li (“Li”) also via a Jane Doe at the Bay Ridge Property, and by mail at that address, although the complaint alleges she lives in Philadelphia, Pennsylvania. NYSCEF Doc. No. 9.

Also on April 2, 2025, plaintiff attempted to serve process upon defendant V Express PA, Inc, via a receptionist at 8513 Frankford Ave., Philadelphia, Pennsylvania. NYSCEF Doc. No. 8.

On April 18, 2025, defendants Zeng and Chen answered with a general denial, a counterclaim alleging that “[b]ased upon Plaintiff’s acts and this proceeding, Defendant was not able to close the transaction of the real property located at 1106 Bay Ridge Parkway, Brooklyn New York 11228, which had been scheduled for closing,” and seven affirmative defenses: (1) failure to state a claim; (2) lack of standing; (3) contribution; (4) failure to avoid or mitigate harm; (5) consent/waiver/estoppel/laches; (6) failure to exercise due diligence to mitigate harm/damages such that any damages found should be reduced; and (7) unclean hands. NYSCEF Doc. No. 10.

On May 8, 2025, plaintiff moved, pursuant to CPLR 3211(a)(7), to dismiss Zeng and Chen’s counterclaim and, pursuant to CPLR 3211(b), to strike Zeng and Chen’s affirmative defenses (Motion Sequence 1). NYSCEF Doc. No. 11. In support, plaintiff argues that Zeng and Chen’s counterclaim fails to state a cause of action, and, inter alia, that Zeng and Chen’s affirmative defenses are conclusory and lacking in specificity. NYSCEF Doc. No. 24.

In opposition, Zeng and Chen argue that their counterclaim should be sustained because plaintiff “did not state a claim of conveyance by Defendants to the detriment of creditors but blocked the closing of the transaction of” the Bay Ridge Property. NYSCEF Doc. No. 44. In support, Zeng and Chen submit an affidavit of Zeng in which he alleges that he does not recognize any of the transactions in the complaint and has not used plaintiff’s services. NYSCEF Doc. No. 45.

Zeng and Chen also argue that it is premature to dismiss their failure to state a claim defense “prior to the completion of discovery,” and that the remaining affirmative defenses should be sustained because plaintiff has alleged that Zeng was involved in a myriad of lawsuits but “did not prove the relationships between the lawsuits and the instant proceeding.” NYSCEF Doc. No. 44.

In reply, plaintiffs, inter alia, reiterate how they pled Zeng’s insolvency prior to the transfer by detailing 13 prior judgments against him totaling over \$300,000, in only one of which plaintiff was able to ascertain a judgment creditor recovering anything. NYSCEF Doc. No. 46.

On May 20, 2025, plaintiff moved, pursuant to CPLR 3215, for a default judgment against Tea Culture, Inc (Motion Sequence 2). NYSCEF Doc. No. 26.

On May 30, 2025, plaintiff moved, pursuant to CPLR 3215, for a default judgment against defendant Ming Li (Motion Sequence 3). NYSCEF Doc. No. 35.

Discussion

Motion to Dismiss Defendants' Counterclaim and Strike Their Affirmative Defenses

In determining whether a complaint is sufficient to withstand a motion pursuant to CPLR 3211(a)(7), “the sole criterion is whether the pleading states a cause of action, and if from its four corners factual allegations are discerned which taken together manifest any cause of action cognizable at law a motion for dismissal will fail.” Guggenheimer v Ginzburg, 43 NY2d 268, 275 (1977).

Here, read very liberally, a cause of action for intentional interference with a contractual relations can be discerned – albeit barely – in Zeng and Cheng’s counterclaim that the instant action is motivated by bad faith and prevented the sale of the Bay Ridge Property, and, therefore, should not be struck at this time.

Here, plaintiff has sufficiently pled a cause of action, pursuant to DCL § 275, that the 2022 transfer of the Bay Ridge Property occurred when Zeng was insolvent, and, further, pursuant to DCL § 273, that such a transfer is voidable “as to a creditor, whether the creditor’s claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation: (1) with actual intent to hinder, delay or defraud any creditor of the debtor...”

It is well settled that conclusory affirmative defenses that merely plead conclusions of law without any supporting facts are properly dismissed. See Chrysler E. Bldg., L.L.C. v Keenwawa, Inc., 217 AD3d 494, 494-95 (1st Dept 2023) (holding that defendant’s “affirmative defenses should have been dismissed as well, as they consisted of nothing more than bare legal conclusions, which are insufficient to raise an affirmative defense”).

Accordingly, as Zeng and Chen’s boilerplate affirmative defenses are conclusory and vague, plaintiff’s that part of plaintiff’s motion seeking their dismissal should be granted.

Motions for Default Judgments

Without leave of court, pursuant to CPLR 306-b, “[s]ervice of the summons and complaint, summons with notice, third-party summons and complaint, or petition with a notice of petition or order to show cause shall be made within one hundred twenty days after the commencement of the action or proceeding.” Further, pursuant to CPLR 3215(3)(i),

When a default judgment based upon nonappearance is sought against a natural person in an action based upon nonpayment of a contractual obligation an affidavit shall be submitted that additional notice has been given by or on behalf of the plaintiff at

least twenty days before the entry of such judgment.

Here, the motion for a default judgment against defendant Ming Li must be denied for lack of personal jurisdiction, as plaintiff allegedly served her on April 2, 2025, 121 days after the complaint was filed, without leave of court. Further, even if service on Ming Li had been timely, the Court would be constrained to deny granting a default judgment, as plaintiff alleges she was served, inexplicably, at the Bay Ridge Property and not the Philadelphia address listed as her home in the complaint, and as plaintiff failed to provide an affirmation of additional notice, pursuant to CPLR 3215(g)(3)(i).

Pursuant to CPLR 3215(g)(4)(i),

When a default judgment based upon non-appearance is sought against a domestic or authorized foreign corporation which has been served pursuant to paragraph (b) of section three hundred six of the business corporation law, an affidavit shall be submitted that an additional service of the summons by first class mail has been made upon the defendant corporation at its last known address at least twenty days before the entry of judgment.

Here, the motion for a default judgment against defendant Tea Culture must be denied as Tea Culture was served pursuant to BCL § 306 and plaintiff has failed to submit an affidavit of additional service, pursuant to CPLR 3215(g)(4)(i).

Conclusion

The motions of plaintiff, Easyship Inc., for default judgments (Motion Sequence 2 and 3) against defendants Ming Li and Tea Culture Inc. are hereby denied; plaintiff's motion (Motion Sequence 1) to dismiss is denied as to answering defendants' counterclaim and granted as to their affirmative defenses; and, accordingly, the Clerk is hereby directed to enter judgment dismissing the affirmative defenses of defendants Zhi E. Eng and Long Hao Chen.

HON. ARTHUR F. ENGORON
ARTHUR F. ENGORON, J.S.C.

8/4/2025
DATE

CHECK ONE: CASE DISPOSED DENIED NON-FINAL DISPOSITION

APPLICATION: GRANTED GRANTED IN PART OTHER

CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER

INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT REFERENCE