

Thorpe v World Bean LLC

2025 NY Slip Op 33206(U)

August 27, 2025

Supreme Court, New York County

Docket Number: Index No. 152881/2024

Judge: Judy H. Kim

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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. JUDY H. KIM PART 04

Justice

-----X

TAMARA THORPE,

Plaintiff,

- v -

WORLD BEAN LLC, OTG CONCESSIONS MANAGEMENT
LLC, "JOHN DOE" EMPLOYEE,

Defendants.

-----X

INDEX NO. 152881/2024

MOTION DATE 03/25/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 6, 7, 8, 9, 10, 11
were read on this motion for JUDGMENT - DEFAULT.

Upon the foregoing documents, plaintiff’s motion for entry of a default judgment against
defendant OTG Concessions Management LLC (OTG) is granted.

Plaintiff brings this personal injury action against defendants World Bean LLC and OTG
alleging that she sustained serious injuries when a cup of hot coffee spilled on her. Plaintiff now
moves, pursuant to CPLR 3215, for a default judgment against OTG for its failure to timely answer
or otherwise appear in this action. The motion is not opposed.

A motion for a default judgment must be supported with “proof of service of the summons
and the complaint[,] ... proof of the facts constituting the claim, the default and the amount due”
(CPLR 3215 [f]). The plaintiff must offer “some proof of liability ... to satisfy the court as to the
prima facie validity of the uncontested cause of action” (*Feffer v Malpeso*, 210 AD2d 60, 61 [1st
Dept 1994]). “The standard of proof is not stringent, amounting only to some firsthand
confirmation of the facts” (*id.*). A party in default “admits all traversable allegations in the

complaint, including the basic allegation of liability, but does not admit the plaintiff's conclusion as to damages" (*Rokina Opt. Co. v Camera King*, 63 NY2d 728, 730 [1984]).

Plaintiff has satisfied these requirements. An affidavit of service dated April 15, 2024 demonstrates that plaintiff served OTG with process pursuant to Limited Liability Company Law §303 by delivering the summons, verified complaint, and an NYSCEF confirmation notice to the Secretary of State that same date (NY St Cts Elec Filing [NYSCEF] Doc No. 10, Gonzalez affirmation, exhibit 2 at 1). Plaintiff has established that defendant's time to answer or appear in the action has since expired (*see* CPLR 320). Plaintiff also mailed an additional copy of the summons and complaint to defendant on March 4, 2025 (NYSCEF Doc No. 10 at 2) (*see Crespo v. A.D.A. Management*, 292 AD2d 5 [1st Dept 2002]).

As to the merits, plaintiff affirms that on December 25, 2022, she purchased a cup of coffee at "World Bean," a concession owned or operated by OTG, in Terminal 2 at JFK International Airport, Queens, New York (NYSCEF Doc No. 11, plaintiff affirmation, ¶¶3, 5). Plaintiff states that an unnamed employee of World Bean failed to secure the lid to the cup and/or failed to monitor the temperature of the coffee in the cup, that the cup of coffee spilled on her, as a result, causing burns to her right wrist (*id.* at ¶¶ 3-4). This is sufficient to establish the prima facie validity of her claim as against OTG, as "a defendant may properly be held liable for the personal injuries caused by the service of a beverage that, because of its excessive temperature, was unreasonably dangerous for its intended use, and the drinking or other use of which presented a danger that was not reasonably contemplated by the consumer" (*Khanimov v McDonald's Corp.*, 121 AD3d 1052, 1053-1054 [2d Dept 2014]; *see also Griffin v Starbucks Corp.*, 52 AD3d 250, 250 [1st Dept 2008]).

Although plaintiff has not moved for relief against defendant World Bean LLC, plaintiff served this defendant with process on May 8, 2024 (NYSCEF Doc No. 5) and World Bean LLC

has answered or appeared in this action. As plaintiff has failed to take any steps towards entry of a judgment against World Bean LLC, the complaint against this defendant is dismissed as abandoned pursuant to CPLR 3215(c) (*see BAC Home Loan Servicing, LP v Moreno*, 182 AD3d 497, 498 [1st Dept 2020]).

Accordingly, it is

ORDERED that plaintiff's motion for a default judgment against defendant OTG Concessions Management LLC is granted, without opposition, on the issue of OTG Concessions Management LLC's liability; and it is further

ORDERED that plaintiff shall file and serve a note of issue on or before September 30, 2025, and thereafter contact the Part Clerk to schedule the inquest; and it is further

ORDERED that plaintiff shall, within ten days of the date of this decision and order, serve a copy of same, with notice of entry, upon all defendants as well as on the Clerk of the Court (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119); and it is further

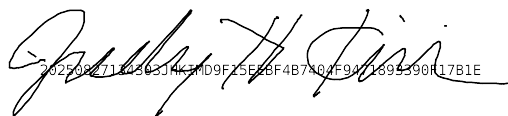
ORDERED that a copy of this order with notice of entry be served by the movant upon the Clerk of the General Clerk's Office, who is directed, upon the filing of a note of issue and a certificate of readiness and the payment of proper fees, if any, to place this action on the appropriate trial calendar for the assessment hereinabove directed; and it is further

ORDERED that such service upon the Clerk of the General Clerk's Office 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 on the court's website); and it is further

ORDERED that the complaint against defendant World Bean LLC is dismissed as abandoned; and it is further

ORDERED that the Clerk is directed to enter judgment accordingly.

This constitutes the decision and order of the Court.



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8/27/2025

DATE

HON. JUDY H. KIM, 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