

Kauyate v Yude Bet Mem, Inc.

2025 NY Slip Op 33434(U)

September 8, 2025

Supreme Court, New York County

Docket Number: Index No. 156154/2024

Judge: James G. Clynes

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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. JAMES G. CLYNES PART 39M

Justice

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MAMADAU KAUYATE,

Plaintiff,

- v -

YUDE BET MEM, INC. and LC & ALPHA CARWASH, LLC

Defendant.

-----X

INDEX NO. 156154/2024

MOTION DATE 08/15/2025

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29

were read on this motion to/for JUDGMENT - DEFAULT

In this action, plaintiff, Mamadau Kauyate seeks damages for personal injuries he allegedly sustained at a business located at 625 11th Avenue in New York County (the "Premises"). Plaintiff further alleges that defendants, Yude Bet Mem, Inc. ("Yude") and LC & Alpha Carwash, LLC ("Alpha") (collectively the "Defendants") maintained ownership and/or business interests in the Premises.

Plaintiff moves, pursuant to CPLR 3215, for a default judgment against the Defendants based on their failure to answer or appear in this action and for the matter to be set down for an inquest and assessment of damages. Defendants oppose.

Procedural Issues

On or about June 17, 2025, plaintiff electronically filed a motion pursuant to CPLR 3215 for a default judgment against the Defendants (NY St Cts Elec Filing [NYSCEF] Doc No.4 - 11).

On or about June 20, 2025, plaintiff electronically filed an amended motion (the "Amended Motion") for a default judgment against the Defendants (NYSCEF Doc No. 12 - 22).

On or about June 27, 2025, Defendants electronically filed an affirmation in opposition to plaintiff's motion (NYSCEF Doc. No. 25 - 26).

On or about July 8, 2025, plaintiff's counsel requested leave to submit reply papers to Defendants' opposition (NYSCEF Doc. No. 27).

By Order dated August 1, 2025, the Court allowed plaintiff to serve and file his reply papers on or before August 15, 2025 (NYSCEF Doc. No. 28).

On or about August 15, 2025, plaintiff electronically filed his affirmation in reply to Defendants' opposition papers (NYSCEF Doc. No. 29).

Plaintiff's Amended Motion requests the same relief as his first motion for a default judgment.

Accordingly, plaintiff's first motion for a default judgment (NYSCEF Doc. No. 4 – 11) is withdrawn and superseded by his Amended Motion.

Further, as Defendants electronically filed their opposition papers after plaintiff had filed his Amended Motion, Defendants' papers shall be read in opposition to plaintiff's Amended Motion.

Discussion

An affidavit dated July 24, 2024 shows that plaintiff effected service upon Yule, a corporation, pursuant to Business Corporation Law § 306 by delivering to the Secretary of State the summons, complaint and notice of mandatory e-filing (NY St Cts Elec Filing [NYSCEF] Doc No. 17, Yun affirmation, exhibit 2).

An affidavit dated July 24, 2024 shows that plaintiff effected service upon Alpha, a limited liability corporation, pursuant to Business Corporation Law § 306 by delivering to the Secretary of State the summons, complaint and notice of mandatory e-filing (NY St Cts Elec Filing [NYSCEF] Doc No. 18, Yun affirmation, exhibit 3).

Plaintiff states in his affirmation that on or about September 20, 2023, he sustained serious personal injuries while on the Premises. He states that the Defendants "owned, operated, managed, controlled, and maintained" the Premises and that he was caused to trip and fall "due to a hazardous, dangerous, and defective condition on the sidewalk" (NY St Cts Elec Filing [NYSCEF] Doc No. 13, Kouyate affirmation at ¶ 3).

Defendants argue in opposition that plaintiff's affirmation is insufficient to support a motion for default judgment. Defendants do not argue that plaintiff failed to properly serve them with the pleadings nor do Defendants argue that they served a timely answer or otherwise joined issue.

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]; *see also Gordon Law Firm, P.C. v Premier DNA Corp.*, 205 AD3d 416, 416 [1st Dept 2022]). The plaintiff must also 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]).

Service may be effected upon a corporation pursuant to Business Corporation Law 306, while service upon a limited liability company may be effected pursuant to Limited Liability Law 303.

Here, plaintiff's affidavits establish that service was properly effected upon Yule and Alpha pursuant to Business Corporation Law 306 and Limited Liability Law 303 respectively. Further, although plaintiff's affidavit as to Alpha (Yun affirmation, exhibit 3) indicates that service was effected pursuant to Business Corporation Law 306, the affidavit indicates that plaintiff met all the requirements for service upon a limited liability company pursuant to Limited Liability Law 303.

Further, Defendants do not dispute that plaintiff properly served them with the pleadings.

In addition, plaintiff's affidavit is sufficient to provide "firsthand confirmation of the facts alleged" in the pleadings (*Whittemore v Yeo*, 117 AD3d 544, 545 [1st Dept 2014][internal quotation marks and citation omitted]). Specifically, plaintiff affirms that on or about September 20, 2023 he was injured at the Premises due to a defective condition and that Defendants "owned, operated, managed, controlled, and maintained" the Premises (Kouyate affirmation at ¶ 3).

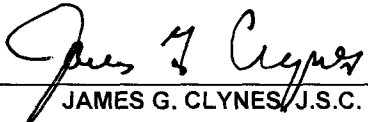
Accordingly, it is

ORDERED that the motion by plaintiff, Mamadau Kauyate, for a default judgment against defendants Yude Bet Mem, Inc. and LC & Alpha Carwash, LLC is granted; 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 Trial Support Office (Room 158), who is directed, upon the filing of a note of issue and a statement of readiness and the payment of proper fees, if any, to place this action on the appropriate trial calendar for an assessment of damages.

This constitutes the Decision and Order of the Court.

9/8/2025
DATE


JAMES G. CLYNES, J.S.C.

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