

**Ramati v Orgenesis, Inc.**

2025 NY Slip Op 33578(U)

September 22, 2025

Supreme Court, New York County

Docket Number: Index No. 654925/2024

Judge: Emily Morales-Minerva

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. EMILY MORALES-MINERVA PART 42M**

*Justice*

-----X

YARON RAMATI

Plaintiff,

- v -

ORGENESIS, INC.,

Defendant.

-----X

INDEX NO. 654925/2024

MOTION DATE 05/15/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 14, 15, 16, 17, 18, 19, 20, 21

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

**APPEARANCES:**

Clarick Gueron Reisbaum, LLP (Isaac B. Zaur, Esq., of counsel) for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this breach of contract and account stated action, plaintiff YARON RAMATI moves, by notice of motion (seq. no. 001), for entry of a default judgment against defendant ORGENESIS INC., pursuant to CPLR § 3215, in the amount of not less than \$47,184.44. Defendant does not appear or submit opposition.

As explained below, the Court dismisses the motion.

## BACKGROUND

Plaintiff YARON RAMATI (Yaron) is a citizen and resident of the State of Israel, and defendant ORGENESIS INC. (Orgenesis) is a Nevada corporation with its principal place of business in Maryland (see New York State Courts Electronic Filing System [NYSCEF] Doc. No. 001, Complaint). On February 01, 2024, the parties entered into a Consulting Agreement (Agreement), wherein Yaron agreed to provide Orgenesis with "on-going consultation on regulatory affairs" (see NYSCEF Doc. No. 002, Consulting Agreement, dated February 01, 2024).

With respect to payment, the Agreement provides that Yaron "will devote up to [] 190 hours per month to [] Orgenesis" and Yaron will invoice Orgenesis "on a monthly basis at the rate of NIS [New Israeli Shekels] 50,000 per month" (id., paragraph 2.1). The Agreement also provides that "within 30 days of signing this Agreement [Orgenesis] shall pay [Yaron] a one-time signing bonus in an amount of NIS 80,000 [] and 4 monthly bonuses in an amount of NIS 37,500 starting from March 31, 2024" (id., paragraph 2.2).

Further, the Agreement provides:

"This Agreement will be governed by and construed in accordance with the laws of the state of New York, USA, without regards to its conflict of laws provisions directing that the laws of another jurisdiction. Any legal action or proceeding arising

under this Agreement will be brought exclusively to the to the [sic] Supreme Court of the State of New York, County of New York [] and the parties irrevocably consent to the personal jurisdiction and venue therein"

(id., at paragraph 10.5).

According to Yaron, he submitted an invoice to Orgenesis for his monthly retainer of NIS 50,000, and for NIS 37,500, representing the third installment of the signing bonus (see NYSCEF Doc. No. 003, Transaction Invoice No. 0003, dated April 14, 2024). However, Orgenesis failed to pay said invoice (see NYSCEF Doc. No. 001, Complaint). According to Yaron, he submitted another invoice to Orgenesis for his monthly retainer of NIS 50,000, and for NIS 37,500, representing the final installment of the signing bonus (see NYSCEF Doc. No. 004, Transaction Invoice No. 0004, dated May 15, 2024). Orgenesis again failed to pay (see NYSCEF Doc. No. 001, Complaint).

Thereafter, on September 19, 2024, Yaron commenced the instant action against Orgenesis, asserting two causes of action sounding in breach of contract (first cause of action) and account stated (second cause of action) (see NYSCEF Doc. No. 001, Complaint). Therein, Yaron seeks damages "in a sum not less than \$47,184.44", plus costs and statutory interest (id.).

Orgenesis has not appeared, answered, or otherwise moved against the complaint. Now, plaintiff moves, by notice of

motion (seq. no. 001), pursuant to CPLR § 3215, for an order granting it a default judgment against Orgenesis.

#### ANALYSIS

CPLR § 3215 (a) authorizes the Court to grant a default judgment where a defendant "fails to appear, plead or proceed to trial of an action reached and called for trial, or when the court orders a dismissal for any other neglect to proceed." To obtain such relief, the moving party must establish three elements: (1) proof of service of the summons and complaint upon the defendant, typically by affidavit of service executed by the process server; (2) proof of the facts constituting the claim, by way of an affidavit from a party with personal knowledge or verified complaint; and (3) proof of the default and the amount due, which may be established through an attorney's affirmation (see CPLR § 3215 [f]).

With respect to service of process, section 313 of the CPLR<sup>1</sup> provides that a foreign defendant subject to the jurisdiction of the court of this state under section 301 of the CPLR may be

---

<sup>1</sup> CPLR § 313 provides that "A person domiciled in the state or subject to the jurisdiction of the courts of the state under section 301 or 302, or his executor or administrator, may be served with the summons without the state, in the same manner as service is made within the state, by any person authorized to make service within the state who is a resident of the state or by any person authorized to make service by the laws of the state, territory, possession or country in which service is made or by any duly qualified attorney, solicitor, barrister, or equivalent in such jurisdiction."

served with the summons outside of the state in the same manner as service made within the state (see CPLR § 313; see Morgenthau v Avios Resources Ltd., 11 NY3d 383, 389 [2008]). Section 301 of the CPLR -- applicable here based on the forum selection clause contained in the Agreement -- provides that "a court may exercise such jurisdiction over persons, property, or status as might have been exercised before" (CPLR § 301; see also CV Holdings, LLC v Bernard Tech., Inc., 14 AD3d 854, 855 [3d Dept 2005] [providing that "parties to an agreement may consent to submit to the jurisdiction of a court that would otherwise not have personal jurisdiction over them])). Therefore, "CPLR § 313 [] has both the intention and effect of removing state lines, and the plaintiff is to use the service methodologies of CPLR 308, 309, 310, 311, and 312-a, etc. wherever the defendant (or person authorized to accept service on defendant's behalf) may be found" (Morgenthau, 11 NY3d at 389 [internal quotations and citations omitted]).

Though CPLR § 311,<sup>2</sup> in conjunction with CPLR § 313, permits foreign corporations to be served by delivering the summons and complaint to an authorized agent thereof, the affidavit of service must state that the individual who accepted service was

---

<sup>2</sup>CPLR § 311 (a)(1) provides, "Personal service upon a corporation or governmental subdivision shall be made by delivering the summons as follows: upon any domestic or foreign corporation, 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."

authorized to do so in order to qualify as proper service under CPLR § 311 (see Manfredo v 100-106 LLC, 224 AD3d 626 [1st Dept 2024]; see Flatow v Goddess Sanctuary & Spa Corporation, 233 AD3d 656, 658 [2d Dept 2024]).

Here, Yaron served Oragenesis by personally delivering a copy of the summons and complaint to "Victor Miller, Corporate Officer" at "230 9<sup>th</sup> Street, Wilmette, IL 60091" (see NYSCEF Doc. No. 005, Affirmation of Service, dated October 02, 2024). This address -- 230 9<sup>th</sup> Street, Wilmette, IL 60091 -- appears for the first time on the Affirmation of Service, and Yaron provides no explanation as to its connection to Oragenesis, which is a Nevada corporation with a business address in Maryland (see NYSCEF Doc. No. 002, Consulting Agreement, providing the address for Oragenesis as "20271 Goldrenrod Lane, Germantown, MD 20876"). Though "Victor Miller" allegedly, in an email correspondence between counsel for Yaron and Victor Miller, provides the service address -- 230 9<sup>th</sup> Street, Wilmette, IL 60091 -- to counsel, Yaron submits no affidavit establishing the authenticity of Victor Miller's address or the email correspondence (see NYSCEF Doc. No. 18, Exhibit C, Email Correspondence). Therefore, without more, service of process pursuant to CPLR §§ 313 and 311 is defective.

Additionally, CPLR § 3215 (f) requires an affidavit by a person with knowledge setting forth "proof of the facts

constituting the claim", or a verified complaint. "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])). And, "if [the] factual allegations do not state a valid cause of action, the party moving for a default judgment is not entitled to the requested relief, even on default" (Nationstar Mortgage, LLC v Hilpertshauser, 156 AD3d 1052, 1053 [3d Dept 2017])).

In this regard, in order to prevail on a breach of contract claim, a plaintiff must establish that (1) a contract exists between the parties; that (2) plaintiff performed in accordance with the contract; that (3) defendants breached their contractual obligations; and that (4) defendants breach resulted in damages (see generally 34-06 73, LLC v Seneca Ins. Co., 39 NY3d 44, 51 [2022] [quotations and citations omitted]

[discussing the standard for a breach of contract in the context of a pleading]). To prevail on an account stated claim, a plaintiff must demonstrate "an account balanced and rendered, with an assent to the balance express or implied; so that the demand is essentially the same as if a promissory note had been given for the balance" (TH Fashion Ltd. v Vince Holding Corp., 230 AD3d 1079, 1079-1080 [1st Dept 2024] [internal quotations and citations omitted]). Such assent may be implied where a defendant retains bills without objecting to them within a reasonable period of time, or makes partial payment on the account (Aronson Mayefsky & Sloan, LLP, 228 AD3d at 185).

Here, Yaron submits neither a verified complaint nor an affidavit of a person with personal knowledge of the facts constituting the claims. The affidavit of Issac B. Zaur, counsel for Yaron, is insufficient to satisfy this requirement and demonstrate prima facie proof of Yaron's breach of contract or account stated causes of action (see 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, is dismissed without prejudice; it is further

ORDERED that plaintiff shall serve a copy of this order, with notice of entry, upon defendant; it is further

ORDERED that plaintiff shall bring a renewed default judgment motion, supported by appropriate documentation, within 90 days; and it is further

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

9/22/2025  
DATE

  
EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
	<input type="checkbox"/>	GRANTED			<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER			<input type="checkbox"/>	SUBMIT ORDER		
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN			<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE