

SoFi Bank, N.A. v Hooks

2025 NY Slip Op 33681(U)

September 29, 2025

Supreme Court, New York County

Docket Number: Index No. 162497/2023

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

SOFI BANK, NATIONAL ASSOCIATION,

Plaintiff,

- v -

ANTHONY HOOKS,

Defendant.

-----X

INDEX NO. 162497/2023

MOTION DATE 05/27/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42

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

Upon the foregoing documents, plaintiff’s motion for default judgment is granted for the reasons set forth below.

Plaintiff commenced this action on December 27, 2023, asserting a claim for breach of contract based on defendant Anthony Hook’s alleged failure to make payments due and owing pursuant to a written agreement dated April 20, 2022 (the “Agreement”) (NYSCEF Doc. No. 1, complaint). The complaint alleges that the funds were disbursed to defendant pursuant to the terms of the Agreement, and the last payment received for the account was on March 21, 2023, in the amount of \$1,684.04 (*id.* at ¶¶ 4, 7). Defendant has not answered or otherwise appeared in this action and plaintiff now seeks judgment against defendant for the sum of \$52,750.39 reflecting the account balance of \$41,475.56 and \$11,274.83 in interest, plus costs and disbursements.

Plaintiff now moves, pursuant to CPLR 3215, for a default judgment against defendant for his failure to timely answer or appear in this action.

DISCUSSION

Pursuant to CPLR 3215, on a motion for leave to enter a default judgment against a defendant for failure to answer or appear, plaintiff must submit proof of service of the summons and complaint or summons with notice, proof of the facts constituting such claim, and proof of the defendant's default (*Bigio v Gooding*, 213 AD3d 480, 481 [1st Dept 2023]). However, pursuant to CPLR 3215(c), if the plaintiff fails to move for entry of judgment within one year of defendant's default, the court shall not enter judgment but shall instead dismiss the complaint as abandoned, unless plaintiff can show sufficient cause as to why the complaint should not be dismissed.

Plaintiff moved for a default judgment on May 27, 2025, which is more than a year after defendant's default. However, plaintiff has shown sufficient cause as to why the complaint should not be dismissed (CPLR 3215(c)). Specifically, according to the affirmation of plaintiff's counsel, plaintiff moved for default judgment on February 9, 2024, but the motion was rejected by the Court because the summons and complaint were served on a "John Doe" and the Clerk of the Court indicated that a default judgment cannot be entered when service is effected on a fictitious party (Affirmation in Support at ¶¶ 8-9; NYSCEF Doc. No. 35 [Email]). "It is not necessary for a plaintiff to actually obtain a default judgment within one year after the default in order to avoid dismissal pursuant to CPLR 3215(c)," but "rather, as long as proceedings are being taken, and these proceedings manifest an intent not to abandon the case but to seek a judgment, the case should not be subject to dismissal" (*US Bank, Natl. Assn. v Duran*, 174 AD3d 768, 770 [2d Dept 2019] [internal citations and quotations omitted]; see *US Bank Natl. Assn. v. Brown*, 147 AD3d 428 [1st Dept 2017]). Here, the plaintiff has established that it manifested an intent to seek judgment and not abandon the case by timely filing the initial motion for default judgment, which was later rejected.

Plaintiff has satisfied the requirements to establish its entitlement to a default judgment. Plaintiff established that the summons and complaint were served on defendant on January 8, 2024, by

leaving a copy of the same with “John Doe,” a person of suitable age and discretion and mailing the same to the defendant on January 10, 2024 (NYSCEF Doc. No. 33 [Affidavit of Service]). Plaintiff also submits an Affidavit of Mailing of Notice of Consumer Credit Action Pursuant to NYCRR § 202.27-b (NYSCEF Doc. No. 14), an affirmation of additional mailing pursuant to CPLR § 3215(g)(3) (NYSCEF Doc. No. 34), and proof of defendant’s non-military service by submitting a report from the “Department of Defense Manpower Data Center” (NYSCEF Doc. No. 36).

In support of the facts constituting plaintiff’s claim, plaintiff has provided an Affirmation of Facts by Original Creditor (NYSCEF Doc. No. 38), in which the affiant provides copies of the loan agreement between plaintiff and defendant (*id.* at Exhibit A), an account statement (*id.* at Exhibit B), and the full loan history for the defendant’s loan (*id.* at Exhibit C), reflecting the last payment made by defendant as well as the balance of the account and interest accrued. Plaintiff further submitted an Affirmation of Non-Expiration of Statute of Limitations (NYSCEF Doc. No. 37).

Finally, plaintiff has established defendant’s default through the affirmation of its counsel, Karen Delfin, Esq. (NYSCEF Doc. No. 39 [Affirmation in Support] at ¶ 6).

Accordingly, it is

ORDERED that plaintiff’s motion for a default judgment against defendant Anthony Hooks is granted; and it is further

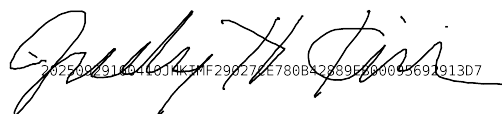
ORDERED that plaintiff is granted a judgment in its favor and against defendant Anthony Hooks in the amount of \$52,750.39, plus costs and disbursements, and it is further

ORDERED that plaintiff shall, within twenty days from the date of this decision and order, serve a copy of this decision and order, with notice of entry, on defendant and the Clerk of the General Clerk’s Office Court (60 Centre Street, Room 119); and it is further

ORDERED that such service upon the Clerk 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 Clerk is directed to enter judgment accordingly.

This constitutes the decision and order of the Court.



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9/29/2025

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