

House v Slow Food, LLC

2025 NY Slip Op 33893(U)

October 10, 2025

Supreme Court, New York County

Docket Number: Index No. 159450/2018

Judge: Debra A. James

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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. DEBRA A. JAMES

PART 59

Justice

-----X

ERIN-LOUISE HOUSE and RASHMI PANDEY,

Plaintiffs,

- v -

SLOW FOOD, LLC, JOHN MANOS, and VASILY
THEODORIDIS,

Defendants.

-----X

INDEX NO. 159450/2018

MOTION DATE 07/18/2025

MOTION SEQ. NO. 008 009

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 008) 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203

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

The following e-filed documents, listed by NYSCEF document number (Motion 009) 204, 205, 206, 207, 208, 209, 210, 211

were read on this motion to/for ORDER OF PROTECTION.

ORDER

Upon the foregoing documents, it is

ORDERED that the motion, pursuant to CPLR 5015(a)(1), of defendant John Manos to vacate the default judgment dated September 26, 2023, as against him, is granted on condition that defendant Manos file an answer to the amended complaint and post an undertaking as directed below; and it is further

ORDERED that defendant John Manos shall serve and file an answer to the amended complaint herein, or otherwise respond thereto, within forty-five (45) days from service of a copy of this order with notice of entry; and it is further

ORDERED that defendant John Manos shall serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office; and it is further

ORDERED that the cross motion, pursuant to CPLR 5015(a)(1) ("upon such terms as may be just"), of plaintiffs, for an order requiring defendant Manos to post an undertaking (mot seq no 008) is granted; and it is further

ORDERED that, within thirty (30) days from the date of service of a copy of this order with notice of entry, the defendant John Manos shall file with the Clerk of the Court an undertaking with sufficient surety in a like amount to be applied to the payment of any judgments not to exceed the sum of \$95,356.40 plus \$154,219.66, if any, awarded against the defendant John Manos in this action; and it is further

ORDERED that such filing of an undertaking with the Clerk of the Court 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, within such thirty (30)-day period, defendant Manos shall serve upon the attorneys for the plaintiffs a written notice of the aforesaid filing of such undertaking; and it is further

ORDERED that all further proceedings, except to review this order, are stayed for thirty (30) days from the date of service of a copy of this order with notice of entry; and it is further

ORDERED that any 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 motion of defendant John Manos for a protective order is granted, and non-party Kaufman Dolowich shall not and need not respond to the Information Subpoena dated June 5, 2025, addressed to such law firm; and it is further

ORDERED that counsel are directed to post on NYSCEF a proposed joint discovery compliance conference order or dueling proposed discovery compliance conference order(s) at least two days before December 4, 2025, on which date counsel shall appear via Microsoft Teams, unless, upon joint request sent to IAS Part 59 Clerk (SFC-Part59-Clerk@nycourts.gov), such appearance be waived by the court.

DECISION

This court disagrees with defendant John Manos that the court lacks personal jurisdiction over him, as once he answered and appeared by counsel in response to the original complaint, any amended complaint need not be served personally upon him.

Two months before, without opposition, the court granted amendment of the complaint, this court issued an order relieving his former counsel, which order his former counsel served with notice of entry on defendant John Manos, the former client, as directed by the court. Defendant Manos neither filed a notice to appear on his own behalf or appointed new counsel within the time frames set forth in such order that relieved his former counsel. The courts notes that there was no affirmative defense of lack of personal jurisdiction alleged in defendant Manos's answer to the original complaint, and therefore, defendant Manos can demonstrate no lack of personal jurisdiction defense at this juncture. Therefore, defendant Manos is not entitled to relief from the default judgment pursuant to CPLR 5015(a)(4). See US Bank National Association v Chkifati, 203 AD3d 1214 (2d Dept 2022).

As plaintiffs served the default judgment with notice of entry at the same address that former counsel represented as his client's last known address on September 27, 2023, defendant Manos had until September 28, 2024 to move to vacate his default under CPLR 5015(a)(1).

However, in the interest of justice, pursuant to CPLR 5015(a)(1), this court vacates the default judgment entered on September 26, 2023, in favor of plaintiffs and as against defendant John Manos only.

As in Tedesco v Ecobank Transnational Inc., 102 AD3d 607 (1st Dept 2013), in the case at bar, there was lack of evidence as to the the address to which the judgment(s) with notice of entry were mailed. While the judgment itself listed defendant Manos' residence as "79 Alfred Street, Port Melbourne, Victoria, Australia", the judgments with notice of entry were instead mailed to the address of Slow Food, the corporate defendant. Likewise, in Goldenberg v Goldenberg, 123 AD3d 761 (2d Dept 2014), the Appellate Division, Second Department, held that the trial court should have exercised its discretion to allow defendant to defend on the merits, when, although more than a year after the statutory one-year period under CPLR 5015(a)(1), defendant moved to vacate, contending that her former attorney failed to apprise her of the entry of the default judgment, which the court found constituted a reasonable excuse. Here, there is no evidence that defendant Manos' former attorney apprised defendant of the pending motion to amend the complaint. Nor had his former attorney filed any response to such motion, at the time he moved to be relieved as defendant Manos's counsel, or inform his client of such pending motion. In addition, defendant Manos comes forward with a meritorious defense, i.e., that he was never the employer of either plaintiff.

However, given that there is some evidence that defendant Manos did not keep his former counsel apprised of his whereabouts¹, just terms would require that such defendant post an undertaking in the amount of the judgments against him. See 52-54 East End Associates v Herbert Weinstein Associates Inc, 167 AD2d 234 (1st Dept 1990). In opposing plaintiffs' cross motion, defendant Manos has come forward with no evidence of his inability to post the required undertaking. See Testwell Craig Laboratories, Inc. v Kenneth Paul Charles Associates, 264 AD2d 836, 837 (2d Dept 1999).

With respect to defendant John Manos's motion for a protective order that challenges the information subpoena dated June 5, 2025, addressed to his current attorneys, "in light of the Supreme Court's vacatur of the default judgment against defendant,

¹In paragraph 11 of his affirmation in support of his Show Cause Order to be relieved (NYSCEF Doc No 67), defendant Manos' counsel states "To date, all efforts to meaningfully communicate with Defendants Slow Food and Manos have failed."

plaintiff[s'] right to any discovery pursuant to the information subpoena (see, CPLR 5223, 5224[a][3]) no longer exists and the denial of the contempt application based thereon was proper" Carr v Decesare, 280 AD2d 852, 853 (3d Dept 2001).

Debra A. James

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10/10/2025

DATE

DEBRA A. JAMES, 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