Savgir v City of New York
2025 NY Slip Op 34034(U)
October 20, 2025
Supreme Court, New York County
Docket Number: Index No. 152258/2025
Judge: Hasa A. Kingo
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. HASA A. KINGO** **PART** **05M**

Justice

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DENIS SAVGIR,

Plaintiff,

- v -

THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF PARKS & RECREATION, NEW YORK CITY DEPARTMENT OF SMALL BUSINESS SERVICES, SOUTH STREET SEAPORT LIMITED PARTNERSHIP, SOUTH STREET SEAPORT MUSEUM, HOWARD HUGHES HOLDINGS, INC.,SEAPORT MUSEUM NEW YORK, 250 DISTRICT, LLC,WAVERTREE MUSEUM

Defendant.

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INDEX NO. 152258/2025

MOTION DATE 07/28/2025

MOTION SEQ. NO. 003

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 003) 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 54, 55, 56, 57

were read on this motion to/for DEFAULT JUDGMENT.

Upon the foregoing documents, Plaintiff Denis Savgir ("Plaintiff") moves for an order granting default judgment against Defendants South Street Seaport Limited Partnership ("SSSLP"), Howard Hughes Holdings, Inc. ("Hughes"), 250 District, LLC ("250 District"), and Wavertree Museum ("Wavertree"). Defendants SSLP and Hughes (collectively, the "SSSLP Defendants") oppose the motion. For the reasons stated herein, Plaintiff's motion is denied.

BACKGROUND

On February 19, 2025, Plaintiff commenced this action to recover damages for personal injuries allegedly sustained when Plaintiff purportedly tripped and fell near the ship *Wavertree*, located at Pier 16 (NYSCEF Doc No. 1). Affidavits of service filed by Plaintiff indicate that, on March 6, 2025, a process server delivered copies of the summons and complaint to SSSLP and 250 District by personal service on the Secretary of State of New York (NYSCEF Doc Nos. 6, 7). The process server attempted to serve Hughes and Wavertree in the same manner but was unsuccessful (*see* NYSCEF Doc Nos. 42, 45). Thereafter, on April 16, 2025, a copy of the summons and complaint was personally delivered to "Christopher Dean, Manager," at "12 Fulton Street, New York, New York 10038" (NYSCEF Doc No. 10). On April 21, 2025, a process server delivered a copy of the summons and complaint to Hughes by personal service on the Secretary of State of Texas (NYSCEF Doc No. 11).

On July 28, 2025, Plaintiff filed the instant motion (NYSCEF Doc No. 39). On August 4, 2025, the SSSLP Defendants joined issue by service of their answer and opposed the motion on

August 18, 2025 (NYSCEF Doc Nos. 51, 54). Plaintiff contends that default judgment is appropriate against the SSSLP Defendants, 250 District, and Wavertree (collectively, "Defendants") because service was effectuated and Defendants had not answered or otherwise appeared as of the filing of the motion (NYSCEF Doc Nos. 40–50). The SSSLP Defendants oppose Plaintiff's motion on the grounds that they have answered, have a reasonable excuse for the delay, and possess meritorious defenses (NYSCEF Doc No. 54).

DISCUSSION

A plaintiff may seek a default judgment against a defendant who has failed to appear, plead, or proceed to trial (CPLR § 3215[a]). To establish entitlement to such relief, the plaintiff must demonstrate proof of service of the summons and complaint, proof of the facts constituting the claim, and proof of the default (*see PV Holding Corp. v AB Quality Health Supply Corp.*, 189 AD3d 645, 646 [1st Dept 2020]; *Gantt v North Shore-LIJ Health Sys.*, 140 AD3d 418, 418 [1st Dept 2016]). In New York, however, there is a strong public policy favoring the resolution of cases on the merits (*Artcorp Inc. v Citirich Realty Corp.*, 140 AD3d 417, 418 [1st Dept 2016]), and under CPLR § 3012(d), the court may compel a party to accept an untimely pleading where justice so requires, upon a showing of a reasonable excuse for the delay or default (CPLR §§ 3012[d], 2005; *see also* CPLR § 2004 ["the court may extend the time fixed by any statute, rule or order for doing any act, upon such terms as may be just and upon good cause shown"]). Whether a reasonable excuse exists is a "discretionary, *sui generis* determination to be made by the court based on all relevant factors," including, among other things, whether there has been prejudice to the opposing party, whether the default was willful, and the strong policy favoring resolution of cases on the merits (*New Media Holding Co. LLC v Kagalovsky*, 97 AD3d 463, 465 [1st Dept 2012]). Moreover, courts have the inherent power to forgive even an unexplained default "in the interest of justice" (*id.* at 465).

A. The SSSLP Defendants

In this case, Plaintiff has failed to meet his burden of demonstrating that the SSSLP Defendants were duly served. The affidavits of service filed by Plaintiff show that SSSLP and Hughes were personally served via the Secretaries of State of New York and Texas, respectively (NYSCEF Doc Nos. 6, 11; CPLR §§ 310-a, 311; Partnership Law §§ 121-109, 121-1505; Business Corporation Law §§ 306, 307). However, because Plaintiff is moving for default judgment against a limited partnership and a foreign corporation, he was required to show that, in addition to service on the Secretary of State, a copy of the summons was mailed to Hughes at its last known address by first-class mail (CPLR § 3215[g][4][i] ["When a default judgment based upon nonappearance is sought against a . . . foreign corporation which has been served pursuant to paragraph (b) of section three hundred six of the business corporation law, an affidavit shall be submitted that an additional service of the summons by first-class mail has been made upon the defendant corporation at its last known address at least twenty days before the entry of judgment."]). Plaintiff's motion is altogether silent on any additional mailing of the summons, and he has therefore failed to make the requisite showing (*see* NYSCEF Doc No. 40, Hamel aff ¶¶ 3–5).[1]

[1] The court notes that there is a split in authority between the Appellate Division, First and Second Departments, with respect to the applicability of the additional service requirement to limited liability companies, and no binding authority regarding the application of CPLR § 3215(g) to limited partnerships (*see Crespo*, 292 AD2d at 10 [the

Moreover, the SSSLP Defendants have demonstrated that their untimely answer should be accepted and that the case should be litigated on its merits. The SSSLP Defendants served their answer within seven days of Plaintiff's filing of the instant motion, and thereafter, counsel for the SSSLP Defendants attempted to obtain Plaintiff's consent to withdraw the motion (NYSCEF Doc Nos. 51, 56). Plaintiff will not be prejudiced by litigating the case on its merits, as this matter remains in its infancy (NYSCEF Doc No. 54, Goldenberg aff ¶ 7). Additionally, although the SSSLP Defendants are not required to demonstrate a meritorious defense, they have nevertheless made such a showing (NYSCEF Doc Nos. 51, 54; *Hirsch v New York City Dept. of Educ.*, 105 AD3d 522, 522 [1st Dept 2013] ["defendants were not required to set forth a meritorious defense because no default judgment had been entered"]). Finally, the SSSLP Defendants' failure to provide a reasonable excuse for the delay is not fatal, considering the strong public policy favoring resolution of cases on the merits (*see* NYSCEF Doc No. 54, Goldenberg aff ¶ 4 [counsel states only that it "first received this matter on July 29, 2025," and provides no explanation for the period between service on the Secretary of State and counsel being retained]; *New Media Holding Co. LLC v Kagalovsky*, 97 AD3d 463, 465 [1st Dept 2012]). Accordingly, Plaintiff's motion for a default judgment against the SSSLP Defendants is denied.[2]

B. 250 District

Next, Plaintiff has failed to meet his burden with respect to 250 District. Specifically, Plaintiff has not submitted an affidavit demonstrating that 250 District was served with an additional copy of the summons at its last known address, as required by CPLR § 3215(g)(4) (NYSCEF Doc Nos. 7, 40, Hamel aff ¶ 5; *see Crespo v A.D.A. Mgmt.*, 292 AD2d 5, 10 [1st Dept 2002] [the additional service requirement under CPLR § 3215(g)(4) applies with equal force to limited liability companies]). The affidavit of service filed by Plaintiff shows that 250 District was served via the Secretary of State of New York and, therefore, Plaintiff was required to mail a copy of the summons by first-class mail to 250 District's last known address (NYSCEF Doc Nos. 7, 44; CPLR § 311-a; Limited Liability Company Law § 303).[3] Accordingly, Plaintiff's motion for a default judgment against 250 District is denied.

C. Wavertree

Finally, Plaintiff has also failed to meet his burden with respect to Wavertree. The affidavits submitted by Plaintiff show that a process server attempted to deliver copies of the

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additional service requirement under CPLR 3215[g][4] applies with equal force to limited liability companies]; *but see Mitchell v Kingsbrook Jewish Med. Ctr.*, 210 AD3d 887, 889 [2d Dept 2022] ["Contrary to the Supreme Court's determination, the plaintiff was not required to demonstrate compliance with the additional notice requirement of CPLR § 3215[g][4]"]). Recently, the Supreme Court, Richmond County found that plaintiff demonstrated proof of service on the defendant limited partnership by "submit[ing] proof of service upon the Secretary of State and supplemental mailing in accordance with CPLR 3215(g)" (*see Clean Power Laundromat Inc. v Dweck Fam. Ltd. P'ship*, 2025 NY Slip Op 51024[U] [Sup Ct, NY County 2025]). To the extent that CPLR § 3215(g) is applicable to limited partnerships in this jurisdiction, Plaintiff has not demonstrated that an additional copy of the summons was sent by first class mail to SSSLP's last known address.

[2] Although the SSSLP Defendants did not formally cross-move to compel Plaintiff to accept their answer, the court nevertheless construes their opposition as such.

[3] The court also notes that the affidavit of service states that a copy of the summons and complaint was served on "250 Seaport District LLC" whereas Plaintiff's caption names "250 District, LLC" as a Defendant (NYSCEF Doc No. 7).

summons and complaint by personally serving the Secretary of State of New York on March 6, 2025, but was unsuccessful (NYSCEF Doc No. 45).[4] Thereafter, a process server personally delivered a copy of the summons and complaint to "Christopher Dean, Manager," at "12 Fulton Street, New York, New York 10038" (NYSCEF Doc No. 10). Significantly, Wavertree's corporate form is entirely unclear from the papers. The court therefore cannot determine how the entity could be served—let alone whether it was, in fact, served with process. To the extent Wavertree is not a natural person, Plaintiff has not demonstrated that leaving a copy of the summons and complaint with "Christopher Dean, Manager," at the Fulton Street address constituted proper service on the entity.[5] Therefore, Plaintiff has not met his burden of demonstrating that Wavertree was served with process, and the motion is denied.

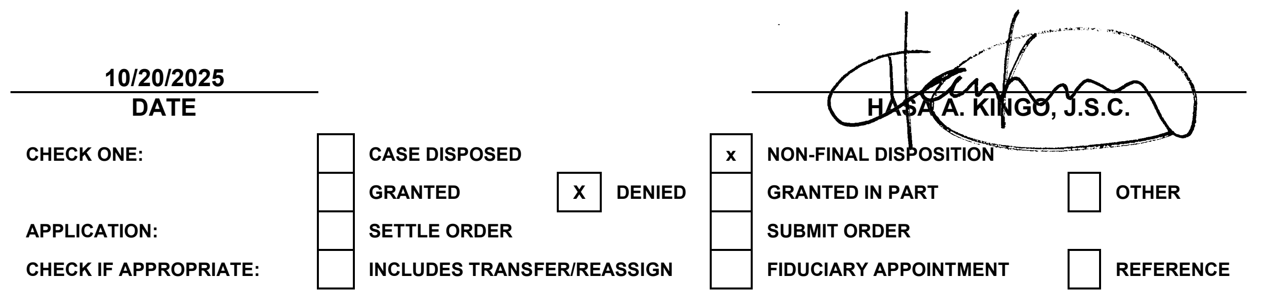
Accordingly, it is hereby

ORDERED that Plaintiff's motion for default judgment is DENIED in its entirety; and it is further

ORDERED that South Street Seaport Limited Partnership's and Howard Hughes Holdings, Inc.'s answer (NYSCEF Doc No. 51) is deemed timely, *nunc pro tunc*; and it is further

ORDERED that the clerk shall set this matter down for a preliminary conference in the Differentiated Case Management Part upon filing for same.

This constitutes the decision and order of the court.



10/20/2025
DATE

HASA A. KINGO, 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	

[4] The court notes that despite providing a copy of the affidavit of non-service, Plaintiff's counsel affirms that "service was effectuated" (NYSCEF Doc No. 40, Hamel aff' ¶ 6). This statement in the face of uncontroverted evidence is afforded no weight.

[5] Personal service on a domestic corporation is accomplished by "delivering the summons [. . .] 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" (CPLR § 311). Personal service on a limited liability company is made by "delivering a copy personally to (i) any member [. . .] if the management [. . .] is vested in its members, (ii) any manager [. . .] if the management [. . .] is vested in one or more managers, (iii) to any other agent authorized by appointment to receive process, or (iv) to any other person designated by the limited liability company to receive process" (CPLR § 311-a). In the event that Wavertree is a corporation or a limited liability company, Plaintiff has not demonstrated that "Christopher Dean" is any such person on behalf of Wavertree.