

**Chang v Living Space Design, LLC**

2025 NY Slip Op 34127(U)

October 23, 2025

Supreme Court, Kings County

Docket Number: Index No. 503331/2019

Judge: Reginald A. Boddie

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This opinion is uncorrected and not selected for official publication.

At an IAS Commercial Part 12 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at 360 Adams Street, Borough of Brooklyn, City and State of New York on the 23rd day of October 2025.

**P R E S E N T:**  
Honorable Reginald A. Boddie  
Justice, Supreme Court

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RYAN CHANG,

Index No. 503331/2019

Plaintiff,

Cal. No. 7 MS 2

-against-

**Decision and Order**

LIVING SPACE DESIGN, LLC, CARVER  
FARRELL aka WOODMAN CARVER FARRELL,  
SONYA FARRELL and JOAN HONG,

Defendants.

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The following e-filed papers read herein:

NYSCEF Doc Nos.

MS 2

67-75, 79-104

Defendants Living Space Design, LLC, Carver Farrell aka Woodman Carver Farrell and Sonya Farrell (collectively, “Defendants”) have interposed a motion (motion sequence two) for an order vacating the default judgment which was granted against defendant Living Space Design, LLC (“Living Space”) pursuant to this court’s Order dated July 14, 2025 (*see* NYSCEF Doc No. 67, notice of motion, ¶ [a]).

Plaintiff Ryan Chang (“Plaintiff”) is the owner of a residential property located at 101 Willow Street, Brooklyn, New York 11201 (the “Property”). On October 9, 2014, Plaintiff entered into a construction contract (the “Construction Contract”) with Living Space to undertake

renovation work on the Property in consideration of the sum of \$2,558,000.50 (the “Project”) (see NYSCEF Doc No. 30). Plaintiff alleges that Living Space failed to supply the requisite manpower to perform the work agreed upon under the Construction Contract, leading to the Project not proceeding in a timely fashion. As such, Plaintiff served a Notice to Cure Default on Living Space advising the latter entity that it would be terminated for cause from the Project should it persist in failing to supply sufficient manpower to complete the Project.

Plaintiff contends that, in lieu of properly staffing the Project and curing the default, Living Space abandoned the Project in breach of the Construction Contract. As such, Plaintiff terminated Living Space from the Project on July 15, 2016. Plaintiff asserts that, owing to Living Space’s abandonment of the Project, Plaintiff incurred additional costs to complete the Project amounting to \$3,046,473.96.

On April 30, 2018, Plaintiff commenced an action styled *Ryan Chang v Living Space Design*, Kings County Supreme Court, Index No. 508809/2018 (the “Underlying Action”) in which he asserted causes of action for breach of contract and unjust enrichment against Living Space. Due to Living Space’s failure to answer or otherwise respond to the complaint, on October 3, 2018, the court granted Plaintiff’s motion for a default judgment and scheduled an inquest for damage assessment purposes. On January 11, 2019, at the inquest, the court awarded Plaintiff a judgment against Living Space in the amount of \$3,741,701.28. On August 15, 2019, Living Space moved to vacate the default judgment, which motion was ultimately granted by Decision and Order dated October 28, 2019.

On June 24, 2021, the court issued a So-Ordered Stipulation and Order pursuant to which, in furtherance of judicial economy, the Underlying Action was joined with the present action (the

“Trust Fund Diversion Action”) “for all purposes, including discovery, dispositive motion practice and trial” (*see* NYSCEF Doc No. 46).

On February 26, 2025, the parties appeared for a court conference, during which defendant Woodman Carver Farrell (“Defendant Farrell”) terminated counsel for defendants in the Underlying Action and the Trust Fund Diversion Action (namely, The Vergari Law Firm, PLLC), as memorialized in the February 26, 2025 Order executed by Defendant Farrell, in which the latter indicates as follows:

“I was the principal of Living Space Design, LLC, mentioned in the above action. As a result of today’s conference I am releasing Chase Vergari, who was representing the LLC and parties.

/s/ Woodman Carver Farrell.”

(NYSCEF Doc No. 47).

Since February 26, 2025, Defendants, including Living Space and Defendant Farrell, have been afforded multiple opportunities by both the court and Plaintiff to retain new counsel for Living Space, a limited liability company, to no avail until recently on August 18, 2025.<sup>1</sup> Specifically, on March 31, 2025, Plaintiff’s counsel sent a letter to Living Space, and Defendant Farrell, requesting as follows that Living Space advise Plaintiff whether it has retained new counsel: “On February 27, 2025 the court entered an Order . . . whereby Defendants . . . relieved Chase Vergari, Esq. as their attorney . . . In advance of the parties’ upcoming status conference next Tuesday, April 1, 2025, please advise whether Living Space Design has retained new counsel to represent it” (*see* NYSCEF Doc No. 48). In response, Living Space, through its principal, Defendant Farrell, advised Plaintiff’s counsel that it had not retained new counsel: “I have not retained anyone” (*see* NYSCEF Doc No. 49).

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<sup>1</sup> Ultimately, approximately two months ago, on August 18, 2025, at or about the time the present motion was interposed, Defendants retained new counsel (*see* NYSCEF Doc No. 76, notice of appearance).

On April 1, 2025, the parties appeared for a court conference before this court, during which Defendants advised the court that they had no intention of hiring another attorney for Living Space, and, as such, the court issued a Conference Order authorizing Plaintiff to move for a default judgment against Living Space as follows:

“After a conference held today, it is hereby agreed and ordered as follows:

- 1) Plaintiff intends to move within 30 days for default.
- 2) Defendants appeared and indicated they have no intention of hiring another attorney . . . .”

(NYSCEF Doc No. 50).

In light of Living Space’s failure to retain counsel, Plaintiff’s counsel interposed a motion (motion sequence one) on May 1, 2025 pursuant to CPLR 3215 and 321 (a) for an order: (i) awarding Plaintiff a default judgment against Living Space with respect to Plaintiff’s first cause of action for breach of contract and unjust enrichment in the Underlying Action in the amount of \$2,815,690.92, plus pre-judgment interest from June 30, 2016 through entry of judgment at the statutory interest rate of 9% pursuant to CPLR 5004; (ii) Plaintiff moved for a default judgment against Living Space with respect to Plaintiff’s second cause of action for unjust enrichment in the Underlying Action in the amount of \$2,327,217.46; and (iii) Plaintiff moved for a default judgment against Living Space with respect to Plaintiff’s third cause of action for trust fund diversion in the present action (the “Trust Fund Diversion Action”) in the amount of \$2,327,217.46 (*see* NYSCEF Doc No. 28, notice of motion, dated May 1, 2025).

In its Decision and Order, dated July 14, 2025 on the preceding motion (namely, motion sequence one, in which Plaintiff moved for a default judgment against Living Space in light of said entity’s persistent failure to retain counsel), this court observed that, based on its review of the NYSCEF database, no notice of appearance had then been filed at the behest of Living Space

notwithstanding the various opportunities granted to such party to retain counsel since February 26, 2025 in a proceeding that has been languishing for over seven years (*see* NYSCEF Doc No. 35, complaint).

In its July 14, 2025 Decision and Order, this court underscored that pursuant to CPLR 321 (a), which provides that “a corporation . . . shall appear by attorney,” a limited liability company must be represented by counsel to prosecute, or defend, a litigation. As such, this court held in the July 14, 2025 Decision and Order that insofar as Living Space declined to retain new counsel to represent it, despite having had ample time to do so since February 26, 2025, a default judgment was appropriate at that juncture, lest corporate defendants be encouraged unduly to prolong longstanding cases by failing to retain counsel (*see Seidler v Knopf*, 153 AD3d 874, 875 [2d Dept 2017] [default judgment issued against defendants limited liability companies where, as here, individuals controlling the limited liability companies purported to appear pro se and answer on behalf of such entities in violation of CPLR 321 (a)]; *see also Michael Reilly Design, Inc. v Houraney*, 40 AD3d 592, 593 [2d Dept 2007] [“[a]n LLC, like a corporation or voluntary association, is created to shield its members from liability and once formed is a legal entity distinct from its members . . . Accordingly, like a corporation or a voluntary association, the LLC may only be represented by an attorney and not by one of its members who is not an attorney admitted to practice in the state of New York”]).

In the July 14, 2025 Decision and Order the court held that a limited liability company is subject to a default judgment where, as here, such entity’s counsel has been terminated, and the limited liability company subsequently fails to appear through new incoming counsel (*see Jimenez v Brenillee Corp.*, 48 AD3d 351, 352 [1st Dept 2008] [court held that a corporate defendant which is not represented by counsel constitutes a default permitting entry of judgment against it since

CPLR 321 is designed to “ensure that the corporation has a licensed representative who is answerable to the court and other parties for his or her own conduct in the matter” [internal quotation marks omitted]).

In the July 14, 2025 Decision and Order this court emphasized that, despite having been afforded various opportunities by the court and Plaintiff alike to retain counsel since February 26, 2025, Living Space has obdurately refused to retain counsel, informing the court in open court during the April 1, 2025 hearing that it has “no intention of hiring another attorney” (see NYSCEF Doc No. 50), in contravention of CPLR 321 (a), thereby leaving the court with no alternative but to hold that a default judgment is appropriate in this longstanding proceeding.

The court held in the July 14, 2025 Decision and Order that further militating in favor of granting a default judgment, Plaintiff has established proof of service of the complaint in the Underlying Action, the complaint and amended complaint in the Trust Fund Diversion Action, as well as proof of the facts constituting the breach of contract, unjust enrichment and trust diversion causes of action in adherence with CPLR 3215 (f), which prima facie showing Living Space has failed to refute in light of its unwillingness to retain counsel to oppose the motion.<sup>2</sup> In these circumstances, this court ruled in the July 14, 2025 Decision and Order that the motion for a default judgment interposed by Plaintiff should be granted based on applicable precedent (see *Jing Shan Chen v R & K 51 Realty, Inc.*, 148 AD3d 689, 690 [2d Dept 2017] [the Appellate Division, Second Department held that “plaintiff established his entitlement to a default judgment by submitting proof of service of the summons and complaint, proof of the facts constituting the claim, and proof of the defendant’s default”]; see also *Cruz v Keter Residence, LLC*, 115 AD3d 700 [2d Dept 2014]

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<sup>2</sup> As reflected in the April 1, 2025 Conference Order, during the conference, plaintiff indicated that he intended to interpose a motion for a default judgment within 30 days, whereupon defendants “indicated that they have no intention of hiring another attorney” (see NYSCEF Doc No. 50).

[court granted plaintiff's motion for a default judgment since "[i]n support of his motion for leave to enter a default judgment on the issue of liability, the plaintiff submitted proof of delivery of copies of the summons and complaint to the Secretary of State . . . He also submitted proof of the facts constituting the claim, and of the defendant's default").

Defendants have now interposed a motion (motion sequence two) for an order vacating the default judgment which was issued against Living Space pursuant to this court's Decision and Order dated July 14, 2025 (*see* NYSCEF Doc No. 67, notice of motion, ¶ [a]). In support of their motion to vacate the default judgment, Defendants argue that Living Space has a reasonable excuse for its actions – or inactions – leading this court to grant a default judgment against Living Space in the July 14, 2025 Decision in light of Living Space's failure to retain counsel to represent it in the instant proceeding. Specifically, Defendants relate that on February 27, 2025, Defendant Farrell informed the court that "Mr. Vergari would no longer be representing the Defendants" and that the "Court then issued an Order discharging Mr. Vergari as the Defendant's attorney" (*see* NYSCEF Doc No. 68, Grace affirm., ¶ 5). Defendants posit as follows that Living Space has a reasonable excuse for failing to retain counsel:

On April 1, 2025, the Defendant [Farrell] appeared for a conference and informed the Court that he was not retaining an attorney . . . Defendant [Farrell] was under the mistaken impression that there was no need to defend the Defendant Living Space because it had ceased business operation in 2017 . . . On July 14, 2024, Justice Boddie granted the Plaintiff's motion for a default judgment against the Defendant Living Space in that a new attorney was not retained within [sic] a timely fashion.

(*id.* ¶¶ 6-7).

Defendants' endeavor to weave a reasonable excuse narrative for Living Space's default predicated on Defendant Farrell's ostensible "mistaken impression that there was no need to defend the Defendant Living Space because it had ceased business operations in 2017" (*id.* ¶ 6) is

belied by the record. As detailed above, Defendant Farrell was afforded various opportunities by both the court and Plaintiff to retain counsel for Living Space during the time frame ranging from February 26, 2025 to July 14, 2025, during which 138-day time period Living Space and Defendant Farrell unyieldingly refused to retain counsel for Living Space, informing the court in open court during the April 1, 2025 hearing that Defendant Farrell “has no intention of hiring another attorney” (*see* NYSCEF Doc No. 50), in violation of CPLR 321 (a), thus leaving the court with no choice but to hold that a default judgment is appropriate in this protracted proceeding. In these circumstances, Defendants’ desultory attempt to develop a reasonable excuse account for Living Space’s default centered around Defendant Farrell’s purported lack of legal sophistication does not pass muster, warranting the denial of Defendants’ motion to vacate the default judgment issued against Living Space in this court’s Decision and Order dated July 14, 2025.<sup>3</sup> It is indeed well settled that pursuant to CPLR 5015 a movant seeking to vacate a default judgment is required to demonstrate a reasonable excuse for its default, which requirement Defendants have not satisfied (*see Lefcort v Samowitz*, 165 AD3d 772, 774 [2d Dept 2018]).

Based on the foregoing, Defendants’ motion (motion sequence two) for an order vacating the default judgment issued against Living Space in the court’s Order dated July 14, 2025 is hereby denied. Any relief not expressly addressed herein has been considered and is denied.

ENTER:



Honorable Reginald A. Boddie

HON. REGINALD A. BODDIE  
J.S.C.

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<sup>3</sup> Defendant Farrell’s contention that he was under the misapprehension that “there was no need to defend the Defendant Living Space because it had ceased business operations in 2017” (*see* NYSCEF Doc No. 68, Grace affirm., ¶6) is all the more unavailing in that the court indicated to him during a court proceeding that Living Space was required to be represented by counsel, at which juncture Defendant Farrell responded that he did not need counsel.