

**50th St. Hous. Dev. Fund Corp. v MR Glazier Group
Inc.**

2025 NY Slip Op 34253(U)

November 6, 2025

Supreme Court, New York County

Docket Number: Index No. 651563/2025

Judge: Emily Morales-Minerva

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. EMILY MORALES-MINERVA PART 42M

Justice

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50TH STREET HOUSING DEVELOPMENT FUND CORPORATION

Plaintiff,

- v -

MR GLAZIER GROUP INC,

Defendant.

-----X

INDEX NO. 651563/2025

MOTION DATE 06/09/2025

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

were read on this motion to/for JUDGMENT - DEFAULT

APPEARANCES:

Tuttle Yick LLP, New York, NY (Charles Daniel Mueller, Esq., of counsel), for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this breach of contract action, plaintiff 50TH STREET HOUSING DEVELOPMENT FUND CORPORATION moves, by notice of motion (seq. no. 01), pursuant to CPLR § 3215, for a default judgment against defendant MR GLAZIER GROUP INC. Defendant MR GLAZIER GROUP INC. does not appear or submit opposition to the motion.

Now, upon review of the application and supporting materials, the Court denies the motion entirely.

When 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, the

plaintiff may seek a default judgment against [the defendant]" (CPLR § 3215 [a]). Generally, the proponent of a default judgment must file proof of (1) service of the summons and complaint, of (2) the facts constituting the claim, and of (3) the default and the amount due (see CPLR § 3215 [f]; see also Woodson v Mendon Leasing Corp., 100 NY2d 62, 70 [2003]; Gordon Law Firm, P.C. v Premier DNA Corp., 205 AD3d 416, 416 [1st Dept 2022]).

Proof of service on a corporation, pursuant to Business Corporation Law § 306, shall include an affidavit of service, providing for, among other things, service of process on the secretary of state as an agent of the corporation.¹

¹ Section 306 of the Business Corporation Law provides, as relevant here: "(b)(1) Service of process on the secretary of state as agent of a domestic or authorized foreign corporation shall be made in the manner provided by clause (i) or (ii) of this subparagraph. . . . (i) Personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department. . . .

"(2) An additional service of the summons may be made pursuant to paragraph four of subdivision (f) of section thirty-two hundred fifteen of the civil practice law and rules" [providing that "[w]hen a default judgment based upon non-appearance is sought against a domestic or authorized 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

Similarly, where a default judgment is sought, as here, against a corporation, the proponent must also submit proof that either -- simultaneous with service, pursuant to BCL § 306, or after such service -- they executed "additional service of the summons [on the corporation] by first class mail" at the corporation's "last known address" (CPLR § 3215 [g] [4] [i] [emphasis added]; BCL § 306 [b] [2])).

While plaintiff appropriately served defendant by effectuating service upon the secretary of state (NYSCEF Doc. No. 02, affidavit of service, dated April 02, 2025), plaintiff provides insufficient proof of compliance with the additional mailing requirement of CPLR § 3215 (g) (4) (ii). The affirmation of additional mailing provides that the summons and complaint were mailed to defendant at both "244 5th Avenue, Unit E152, New York, NY 10001" and "979 3rd Avenue, Suite 815, New York, NY 10022" (NYSCEF Doc. No. 08, affirmation of additional mailing). However, the deponent does not attest to having mailed the summons and complaint to defendant corporation's "last known address" (id.). In any event, a conclusory statement of a corporation's "last known address" would be insufficient absent language substantiating the source of that knowledge.

defendant corporation at its last known address at least twenty days before the entry of judgment").

Accordingly, it is hereby

ORDERED that plaintiff's motion (seq. no. 01) is denied, without prejudice; it is further

ORDERED that plaintiff shall serve a copy of this order with notice of entry on defendant within 15 days of such entry, and shall file proof of such with the Court; and it is further

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

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

11/6/2025
DATE

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

REFERENCE

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT