

**Corniel v Natasha Accessories, Ltd.**

2025 NY Slip Op 34445(U)

November 20, 2025

Supreme Court, New York County

Docket Number: Index No. 157430/2024

Judge: James G. Clynes

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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. JAMES G. CLYNES PART 39M

Justice

-----X

JOHN CORNIEL

Plaintiff,

- v -

NATASHA ACCESSORIES, LTD.,

Defendant.

-----X

INDEX NO. 157430/2024

MOTION DATE 04/10/2025

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 8, 9, 10, 11, 12, 13, 14, 15

were read on this motion to/for JUDGMENT - DEFAULT

Upon the foregoing documents, it is ordered that the motion by plaintiff pursuant to CPLR 3215 for an Order granting default judgment in favor of plaintiff against defendant Natasha Accessories, Ltd., and scheduling an inquest to determine damages is granted for the reasons set forth below.

Plaintiff John Corniel alleges defendant Natasha Accessories, Ltd. violated New York Labor Law by failing to pay plaintiff not less frequently than on a weekly basis. Plaintiff filed suit seeking damages and an order of class certification under CPLR sections 901 and 902 (NYSCEF 1). Plaintiff now moves for an order granting default judgment and the scheduling of an inquest (NYSCEF 8). Defendant opposes the motion.

"A party seeking a default judgment must submit proof of service of the summons and complaint and 'proof of the facts constituting the claim, the default and the amount due.' To demonstrate 'facts constituting the claim,' the movant need only proffer proof sufficient 'to enable a court to determine that a viable cause of action exists.' The movant may do so either by submission of an affidavit of merit or by verified complaint, if one has been properly served." Bigio v. Gooding, 213 A.D.3d 480, 481 (1st Dept 2023) (citations omitted). Here, plaintiff has established proof of service of the summons and complaint (NYSCEF 11, 14, 15) and as the time to answer or appear has since expired, plaintiff has thereby demonstrated proof of the default.

“In order to successfully oppose a [motion for a] default judgment, a defendant must demonstrate a justifiable excuse for his default and a meritorious defense.’ “[W]hether there is a reasonable excuse for a default is a discretionary, sui generis determination to be made by the court based on all relevant factors, including the extent of the delay, whether there has been prejudice to the opposing party, whether there has been willfulness, and the strong public policy in favor of resolving cases on the merits.” New Media Holding Co. LLC v. Kagalovsky, 97 A.D.3d 463, 465–66 (1st Dept 2012) (citations omitted). Here, defendant argues it can succeed on both of these prongs by demonstrating law office failure and showing that plaintiff was properly paid.

Defendant offers two interrelated reasons why the default is excusable. First, defendant’s principal counsel affirmed his parents were both afflicted with cancer and passed away between the time of service of plaintiff’s complaint and the instant motion (NYSCEF 14). Because of this situation, a number of legal matters defendant’s principal counsel would typically handle were reassigned to alternative counsel (NYSCEF 15). This is the second interrelated reason offered—law office failure. Both defendant and defendant’s principal counsel erroneously believed the instant matter had been transferred to alternative counsel, who would handle the case. However, due to some unspecified error, the case was not properly transferred, and so defendant’s case was not being actively managed, leading to the instant default. Upon learning of this, defendant’s principal counsel immediately attempted to resolve the default which, coupled with previous discussions with opposing counsel as to the merits of the case, demonstrates an intent not to abandon the instant litigation.

Defendant correctly notes that, in light of the strong public policy favoring resolution of cases on their merits, courts are inclined to excuse inadvertent law office failure, especially where, as here, there is no showing of willfulness by the defaulting party or resultant prejudice. See Kramer v. Edenwald Const. Co., 261 A.D.2d 284, 284 (1st Dept 1999); Cheri Rest., Inc. v. Eoche, 144 A.D.3d 578, 580 (1st Dept 2016). Moreover, courts generally find negative health outcomes on counsel’s family warrant a finding of reasonable excuse. See Goodwin v. New York City Hous. Auth., 78 A.D.3d 550, 551 (1st Dept 2010) (finding a one-time default excusable due to “counsel’s stressful preoccupation with the health of a close family member . . . .”); Fine v. Fine, 12 A.D.3d 399, 400, (2d Dept 2004) (“The plaintiff’s counsel provided a reasonable excuse for her default in opposing the defendant’s motion . . . based upon the serious illness and death of her mother-in-law which disrupted her small family law practice.”). Here, defendant and defendant’s principal

counsel offer affirmations attesting to this unfortunate family situation, thereby evidencing this reason for the default.

Less clearly evidenced is the consequent law office failure. Defendant's principal counsel affirmed he mistakenly thought the instant action was being attended to by alternative counsel when in fact it was not. Yet defendant's papers scantily describe the process by which alternative counsel was to assume responsibility for the instant matter. As a result of some nondescript law office failure, defendant failed to appear for seven months—a length of time which militates against a finding of reasonable excuse. See Johnson-Roberts v. Ira Judelson Bail Bonds, 140 A.D.3d 509, 509–10 (1st Dept 2016) (“Certainly, the record contains no adequate explanation for why the law firm representing defendants failed to communicate with plaintiff's counsel for nearly five months, even to inform counsel that a family emergency prevented defendants from timely responding to the litigation. What is more, two attorneys, only one of whom was affected by a family emergency, were representing defendants in this matter; nowhere do defendants explain why the other attorney representing them could not have taken the necessary steps to advance the litigation.”).

Even assuming there was justifiable excuse, there is clearly no meritorious defense. It is undisputed that plaintiff was a manual worker in the employ of defendant. The crux of the dispute turns on an alleged violation of New York Labor Law § 191(a)(1), that is, whether plaintiff was paid in a timely manner as required by the statute. Plaintiff's affirmation, which alleges untimely payment, is sufficient to establish a viable cause of action for unpaid wages. See Kirby v. Carlo's Bakery 42nd & 8th LLC, 212 A.D.3d 441, 442 (1st Dept 2023); Rosario v. Hallen Constr. Co., 214 A.D.3d 544, 544 (1st Dept 2023). In opposition, defendant argues that plaintiff was properly paid. Defendant affirmed that “Plaintiff was paid for the previous week worked and the current week on the Friday of the second week.” Thus, defendant argues, plaintiff was paid within seven days for his services (NYSCEF 15).

“The employer may assert an affirmative defense of payment if there are no wages for the ‘employee to recover’ (Labor Law § 198 [1-a]).” Vega v. CM & Assocs. Constr. Mgmt., LLC, 175 A.D.3d 1144, 1145 (1st Dept 2019). However, New York Labor Law § 191 (1)(a)(i) stipulates that manual workers must generally “be paid weekly and not later than seven calendar days after the end of the week in which the wages are earned . . . .” As such, “the Appellate Division, First Department, concluded that the payment of a manual worker's wages on a biweekly, rather than a

weekly, basis supports a [cause of action for damages pursuant to Labor Law violations.]” Phillips v. Max Finkelstein, Inc., 73 Misc. 3d 1, 3 (Sup. Ct. App. Term. 2d Dept 2021).

Accordingly, it is hereby

ORDERED that plaintiff’s motion for default judgment against defendant Natasha Accessories, Ltd., is granted; and it is further

ORDERED that this matter shall be set down for an assessment of damages as against defendant Natasha Accessories, Ltd.; and is further

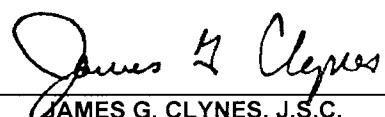
ORDERED that Plaintiff may file a Notice of Issue/Notice of Inquest against Defendant; and it is further

ORDERED that counsel for Plaintiff is directed to serve a copy of this Decision and Order with notice of entry within twenty days upon the defendant and upon the Clerk of the General Clerk’s Office, who is directed, upon the filing of a Note of Issue/Notice of Inquest and a certificate of readiness and the payment of proper fees, if any, to place this action on the appropriate trial calendar for the assessment hereinabove directed, and it is further

ORDERED that such 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 at the address [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)).

This constitutes the Decision and Order of the Court.

11/20/2025  
DATE

  
JAMES G. CLYNES, J.S.C.

CHECK ONE:  CASE DISPOSED  DENIED  NON-FINAL DISPOSITION

APPLICATION:  GRANTED  GRANTED IN PART  OTHER

CHECK IF APPROPRIATE:  SETTLE ORDER  SUBMIT ORDER

INCLUDES TRANSFER/REASSIGN  FIDUCIARY APPOINTMENT  REFERENCE