

Tao Liu v Sobin Chang

2025 NY Slip Op 34536(U)

November 26, 2025

Supreme Court, New York County

Docket Number: Index No. 654560/2023

Judge: Kathleen Waterman-Marshall

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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. KATHLEEN WATERMAN-MARSHALL PART 31

Justice

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TAO LIU,

Petitioner,

- v -

SOBIN CHANG, JP MORGAN CHASE BANK, N.A.,
CHARLES SCHWAB & CO., INC., AQUAVIT HOLDINGS,
LLC, AQUAVIT LIFE SCIENCES INC., AQUAVIT
PHARMACEUTICALS, INC., IRIS MANAGEMENT
CONSULTING SERVICES, LLC D/B/A AQUAVIT
CUSTOMER SOLUTIONS,

Respondents.

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INDEX NO. 654560/2023
MOTION DATE 07/21/2025
MOTION SEQ. NO. 006

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 006) 107, 108, 109, 110, 111, 112, 113, 114, 115, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 141, 155

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

Upon the foregoing documents, the motion by Sobin Chang, *pro-se*, to vacate this Court’s June 17, 2025 Decision and Order and stay all enforcement/turnover proceedings, is denied.

Background

2020 Action

In 2020, Petitioner Tao Liu (“Mr. Liu”) brought a prior plenary action (the “2020 Action”; NY Index No. 656209/2020) against Respondent Sobin Chang (“Ms. Chang”) for use and occupancy of Unit 39A at 157 West 57th Street in the County, City, and State of New York. After a pattern of default, willful failure to obey court orders, and meritless claims, Ms. Chang’s answer was stricken and Mr. Liu was awarded a default judgment against Ms. Chang in the amount of \$211,516.28. As is pertinent here, Ms. Chang submitted an affidavit in the 2020 Action in which she states that she had vacated Unit 39A and moved into Unit 40A at 157 West 57th Street (*see* NY Index No. 656209/2020 NYSCEF Doc. No. 111 at ¶ 8 “I vacated and ... moved to a different unit, 40A in the building”).

As part of post-judgment enforcement efforts, Mr. Liu served Ms. Chang and Aquavit Pharmaceuticals, Inc. – an entity for which Ms. Chang is Chief Executive Officer – information subpoenas, restraining notices, and subpoenas duces tecum. Neither Ms. Chang nor Aquavit Pharmaceuticals responded to those subpoenas and notices, and both were held in contempt (*id.* Doc. No. 194). Neither Ms. Chang nor Aquavit Pharmaceuticals have purged their contempt.

2023 Action

Mr. Liu brought the instant post-judgment turnover proceeding to enforce his judgment from the 2020 Action when he became aware that Ms. Chang transferred \$535,000.00 from her personal accounts to the account of an entity she allegedly controls, and then to various other entities – including Aquavit Pharmaceuticals (collectively “Chang Entities”). Mr. Liu contends that the transfer was fraudulent and meant to frustrate his ability to collect the 2020 Action’s judgment.

Mr. Liu filed the Petition initiating this action and the order to show for judgment enforcement simultaneously. The jurist previously assigned to this matter (Hon. Louis Nock, JSC) directed Mr. Liu to serve the order to show cause and Petition on Ms. Chang via Federal Express at her address at 157 West 57th Street, Unit 40A.¹ Thereafter, counsel for Ms. Chang and the Chang Entities sought an adjournment of the 2023 Petition, and the parties entered into a stipulation adjourning the Petition and waiving all jurisdictional defenses. Ms. Chang and the Chang Entities then answered the Petition. However, Ms. Chang and the Chang Entities failed to comply with the preliminary conference order and failed to appear at a status conference. Mr. Liu moved for a default judgment. Neither Ms. Chang nor the Chang Entities opposed the default motion. This Court granted a default judgment as against Ms. Chang and the Chang Entities, directed them to pay the money judgment from the 2020 Action; permitted Mr. Liu to restrain, attach, and levy execution against their accounts; found Ms. Chang and the Chang Entities to be alter egos for veil piercing purposes; and granted Mr. Liu attorney’s fees in an amount to be determined at future inquest.

Following a similar pattern to the 2020 Action, Ms. Chang then moved, *pro-se* via an emergency order to show cause, to stay enforcement of this Court’s default judgment in the 2023 Action. This Court declined to sign Ms. Chang’s *pro-se* order to show cause for failure to file the required affirmation of good faith, and as not presenting a genuine emergency. Again, as with the 2020 Action, after Ms. Chang’s order to show cause was declined, she moved for identical relief via the instant notice of motion. Ms. Chang contends that the 2023 default judgment must be vacated under CPLR § 5015(a)(3) due to fraud, misrepresentation, and misconduct by Mr. Liu and his counsel.

Discussion

As an initial matter, Ms. Chang’s motion is filed *pro-se*; thus, pursuant to CPLR § 321(a), she is prohibited from representing or arguing on behalf of any of the Chang Entities, or other corporate respondents, who may only appear via counsel. Accordingly, that portion of Ms. Chang’s motion purporting to be made on behalf of all other respondents other than herself, is denied (*see e.g. Matter of Tenants Comm. of 36 Gramercy Park v New York State Div. of Hous. & Community Renewal*, 108 AD3d 413 [1st Dept 2013] [*pro-se* individual could not appear on behalf of voluntary association]; *Jimenez v Brenillee Corp.*, 48 AD3d 351, 352 [1st Dept 2008] citing *Mail Boxes Etc. USA, Inc., v Higgins*, 281 AD2d 176 [1st Dept 2001] [failure of corporation to appear by counsel constitutes a default]).

¹ As well as via email at sobinchang@gmail.com and sobin.chang@aquavitpharma.com.

Vacate – CPLR § 5015(a)(3)

Importantly, Ms. Chang’s notice of motion seeks vacate the 2023 Action’s default judgment solely under CPLR § 5015(a)(3), she does not move under CPLR § 317, § 5015(a)(1), or § 5015(a)(4). CPLR § 5015(a)(3) provides for relief from an order based on fraud, misrepresentation or other misconduct of an adverse party. However, where a movant’s claim of fraud is of “dubious merit,” vacatur is defeated by the policy favoring a judgment’s finality; vacatur under these circumstances is an abuse of discretion (*Greenwich Sav. Bank v JAJ Carpet Mart, Inc.*, 126 AD2d 451, 453 [1st Dept 1987]; *Shomron v Fuks*, 157 AD3d 685 [1st Dept 2017]). Vacatur based on unsupported allegations of fraud detracts from the public policy favoring finality (*Matinzi v Joy*, 96 AD2d 780 [1st Dept 1983]).

Ms. Chang argues that she was never served with process, and that the address where service was completed, 157 West 57th street Unit 40A, is unknown to her; she avers she has no connection to the address. However, Ms. Chang’s argument is devoid of merit as a matter of law and, more troubling, appears to be a carefully crafted attempt at fraud upon this Court, if not outright perjury.

First, as a matter of law, Ms. Chang expressly waived all jurisdictional defenses via the October 23, 2023 stipulation, thus she cannot now claim insufficient service of process. Additionally, Ms. Chang, via counsel, filed an answer nearly two years ago, her answer does not raise any jurisdictional defenses, and the parties have proceeded in this action accordingly. Thus, Ms. Chang has waived any claim that the Court lacks personal jurisdiction (*Thomas v Triboro Maintenance Corp.*, 223 AD3d 582 [1st Dept 2024] [jurisdictional defense waived where party participated in action]).

Second, and more troubling, assuming *arguendo* that Ms. Chang had not waived jurisdictional defenses, her affidavit on this motion regarding her address is demonstrably false, if not perjurious. Ms. Chang avers that 157 West 57th Street Unit 40A has “no connection to my legal, personal, or business affairs” (NYSCEF Doc. No. 108 at ¶ 3), a position completely at odds with her statement in an affidavit in the 2020 Action that she had vacated Unit 39A and moved into Unit 40A at 157 West 57th Street. In support of her claim that she resided in Unit 40A, Ms. Chang annexed a copy of her lease for Unit 40A, which lists Ms. Chang as the tenant (NYSCEF Doc. No. 126). Consequently, Ms. Chang’s claim that she has no ties to Unit 40A, or that Unit 40A is an “unrelated” or “unknown individual’s Manhattan residential address”, is false and provides no basis to vacate the default judgment. Furthermore, Ms. Chang’s bare denial of having received service is insufficient; the denial does not contain the requisite specific facts to refute service (*Deutsche Bank Natl. Trust Co. v White*, 110 AD3d 759 [2d Dept 2013]; *Countrywide Home Loans, Inc.*, 171 AD3d 858 [2d Dept 2019]).

Ms. Chang’s claims of fraud by petitioner’s counsel are difficult to follow, and appear to be made on behalf of the corporate respondents. As stated *supra*, Ms. Chang may not appear *pro-se* on behalf of the corporate entities, thus these arguments do not form a basis for vacatur. To the extent that she contends, on her own behalf, that mail was concealed or petitioner’s counsel engaged in deceptive practices, the claims are conclusory and the exhibits purportedly supporting these claims do no such thing. Conclusory and unsupported claims of fraud do not form a basis to vacate a judgment (*see e.g. Greenwich Sav. Bank v JAJ Carpet Mart, Inc.*, 126 AD2d at 453).

Consequently, there is no basis to vacate the default judgment under CPLR § 5015(a)(3).

Miscellaneous Relief – Vacate CPLR § 5015(a)(1) and (4) Vacate Note of Issue

Although Ms. Chang’s notice of motion only seeks relief under CPLR § 5015(a)(3), her memorandum of law purports to also seek vacatur under CPLR § 5015(a)(1) and (4), as well as under the 14th Amendment to the Federal Constitution and Article I § 6 of the New York Constitution. A defendant moving to vacate a default under CPLR § 5015(a)(1) must demonstrate a reasonable excuse for the default and a meritorious defense (*see Eugene Di Lorenzo, Inc. v A.C. Dutton Lumber Co.*, 67 NY2d 138, 141 [1986]; *Kassiano v Palm Mgt. Corp.*, 95 AD3d 541 [1st Dept 2012]). Ms. Chang has demonstrated neither. Having failed to offer a reasonable excuse for her default, the court need not consider whether Ms. Chang has a meritorious defense. Were the court to reach that issue, it would find Ms. Chang has also failed to offer a meritorious defense. The preference to adjudicate matters on their merits “does not justify vacating a default judgment where the moving party fails to satisfy the two-prong test of showing a reasonable excuse for the default and a meritorious defense” (*Leader v Parkside Group*, 174 AD3d 420 [1st Dept 2019]).

Having failed to demonstrate any basis for vacatur, Ms. Chang has necessarily failed to demonstrate a reason to stay enforcement of the judgment.

Ms. Chang’s papers on this motion also seek to vacate the note of issue.² That relief is denied as without any basis. The Court may vacate the note of issue where a party has made a material misstatement, or the certificate otherwise fails to comply with the regulations (22 NYCRR § 202.21; *Nielsen v New York State Dormitory Auth.*, 84 AD3d 519, 520 [1st Dept 2011]; *Matos v. City of New York*, 154 AD3d 532 [1st Dept 2017]). Ms. Chang contends that there was no: discovery schedule; jury waiver; compliance conference; or notice and, therefore, the note of issue should be vacated. These claims are invented out of whole cloth. The court issued various conference and discovery orders; Ms. Chang simply failed to appear at conferences or failed to comply with orders, leading to the default judgment against her in this action. The action is not triable by jury, as the lease agreement at issue in the 2020 Action expressly waived trial by jury. As to Ms. Chang’s claim she lacked notice, the record irrefutably demonstrates that she had notice of this action beginning in 2023, when her counsel stipulated to waive jurisdictional defenses and filed an answer on her behalf. Consequently, there is no basis to vacate the note of issue.

Finally, Ms. Chang fails to demonstrate any due process violations under the Federal or New York State Constitutions. She had notice of this action from at least 2023, when her attorney stipulated to waive any jurisdictional defenses and filed an answer on her behalf which did not assert any jurisdictional defenses. Put simply, the record demonstrates that Ms. Chang had ample opportunity to participate in this action, and did in fact so participate before defaulting. Her failure to comply with court orders and appear for court conference was at her peril.

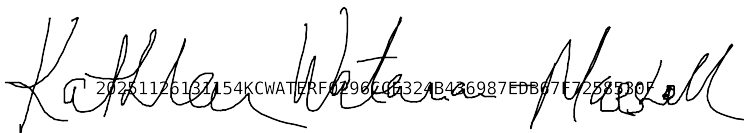
² Vacatur of the note of issue is also sought in motion sequence 007, which is currently assigned to another jurist.

Consequently, there is no basis to vacate the default judgment under CPLR § 317, §§ 5015(a)(1) or (4), or due process considerations. Nor is there any basis to vacate the note of issue under 22 NYCRR § 202.21.

Accordingly, it is

ORDERED that the motion is denied in its entirety; and it is further

ORDERED that any arguments not expressly addressed herein have nevertheless been considered and are expressly denied.



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11/26/2025
DATE

KATHLEEN WATERMAN-MARSHALL,
J.S.C.

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
		<input type="checkbox"/>	FIDUCIARY APPOINTMENT
		<input type="checkbox"/>	REFERENCE
		<input type="checkbox"/>	OTHER

APPLICATION:

CHECK IF APPROPRIATE: