

Lendingclub Bank, N.A. v Mergen Inc.

2025 NY Slip Op 34619(U)

December 1, 2025

Supreme Court, New York County

Docket Number: Index No. 156537/2024

Judge: Anar R. Patel

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 45

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LENDINGCLUB BANK, N.A.,	INDEX NO.	<u>156537/2024</u>
Plaintiff,	MOTION DATE	<u>09/25/2025</u>
- v -	MOTION SEQ. NO.	<u>002</u>
MERGEN INC., VICKEY BHIMJIANI, MIHIR DAIYA, SANGEETA DAIYA		
Defendants.	DECISION + ORDER ON MOTION	

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HON. ANAR RATHOD PATEL:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 64–72 were read on this motion to/for JUDGMENT – SUMMARY.

Plaintiff Lendingclub Bank, N.A. (“Plaintiff”) moves pursuant to CPLR § 3212, granting summary judgment in its favor on each and every cause of action against Defendants¹ Mergen Inc. d/b/a Lightbridge Academy (“Lightbridge”), Mihir Daiya (“Mihir”), and Sangeeta Daiya (“Sangeeta”), including an award of attorneys’ fees and costs, and pursuant to CPLR §§ 3212 and 3211, dismissing Defendants’ affirmative defenses with prejudice. Plaintiff submits the Affirmation of Cortez Dixon, Senior SBA Workout & Liquidation Manager at Plaintiff, (NYSCEF Doc. No. 6 (“Dixon Aff.”) and its Statement of Undisputed Facts (NYSCEF Doc. No. 72) in support of its motion. Defendants have not opposed the Motion. For the reasons as set forth herein, Plaintiff’s Motion is granted.

Relevant Factual and Procedural Background

This action arises from a loan made by Plaintiff to Lightbridge in the amount of \$3,333,000 on August 20, 2019, and evidenced by a U.S. Small Business Administration Note (“SBA Note”) and loan agreement (“Loan Agreement”) (collectively, “SBA Loan”) (NYSCEF Doc. No. 2 (SBA Note and Loan Agreement)), which was guaranteed by the individual defendants, Vickey Bhimjiani, Mihir Daiya, and Sangeeta Daiya (“Guarantors”) pursuant to separate guaranty agreements (collectively, “Guarantys”) (NYSCEF Doc. Nos. 3–5 (Guarantys)). Under the SBA Loan, Lightbridge agreed to repay the principal sum in monthly installments commencing on June 5, 2020, plus interest until the maturity date of September 20, 2035, when all unpaid sums would

¹ On June 23, 2025, Defendant Vickey Bhimjiani (“Bhimjiani”) filed for bankruptcy (NYSCEF Doc. No. 56). Accordingly, the Court entered an Order dated August 8, 2025, directing that Plaintiff’s claims against Bhimjiani are stayed, and claims against Defendants Lightbridge, Mihir, and Sangeeta are severed and continued. NYSCEF Doc. No. 59, 61.

become due and owing. As inducement to enter into the loan, Lightbridge pledged certain of its assets to Plaintiff to secure its obligations under the SBA Loan, including accounts, inventory, equipment, and other assets listed in the security agreement (“Security Agreement”) (NYSCEF Doc. No. 6 (Security Agreement)).

During the period of August 20, 2019 through September 23, 2020, Plaintiff made disbursements of the principal sum totaling \$3,332,976.54. Dixon Aff. at ¶ 12. However, Lightbridge failed to remit the payment due on October 5, 2023, and every month thereafter. *Id.* at ¶ 14. The SBA Loan provides that, upon default, Plaintiff is entitled to immediate possession of the Collateral under the Security Agreement, in addition to immediate payment of the amounts due under the SBA Loan, including costs and expenses (including attorneys’ fees) incurred by Plaintiff in enforcing its rights under the SBA Loan.

On December 12, 2023, Plaintiff sent a written demand to Mihir and Sangeeta for the amounts due under the SBA Loan and Guarantys. NYSCEF Doc. No. 1 (“Compl.”) at ¶¶ 25, 30; Dixon Aff. at ¶ 15. To date, Mihir and Sangeeta have failed to remit payment and are in default; Plaintiff seeks the amounts due on the Guarantys as well as costs and fees (including attorneys’ fees), incurred in enforcing its rights under the Guarantys. Dixon Aff. at ¶ 15.

As of September 23, 2025, there is presently due and owing \$4,053,601.93 (plus applicable interest accruing at \$907.75 per day and fees, including reasonable attorneys’ fees, until the date a judgment is entered) by Defendants to Plaintiff under the SBA Loan and Guarantys. Dixon Aff. at ¶ 16.

Plaintiff commenced this action on July 17, 2024, with the filing of the Summons and Complaint. All Defendants filed the Answer on August 20, 2024, and subsequently an Amended Answer on October 15, 2024, which asserts 22 affirmative defenses and no counterclaims. *See* NYSCEF Doc. No. 15 (Ans.), 27 (Am. Ans.). As relevant here, Plaintiff asserts the following causes of action in the Complaint: the First Cause of Action against Lightbridge for default under the SBA Loan, the Third Cause of Action against Mihir as Guarantor for failure to pay under the SBA Loan, the Fourth Cause of Action against Sangeeta as Guarantor for failure to pay under the SBA Loan, the Fifth Cause of Action against all Defendants for immediate possession of the Collateral under the Security Agreement, the Sixth, Eighth, and Ninth Causes of Action against Lightbridge, Mihir, and Sangeeta, respectively, for expenses, including attorneys’ fees, under the SBA Loan and Guarantys.

The Court entered a Preliminary Conference Order on October 3, 2024, setting forth a discovery schedule in this action. NYSCEF Doc. No. 23 (Preliminary Conference Order). The discovery schedule was amended at the parties’ request on November 14, 2024 (NYSCEF Doc. No. 32) and December 19, 2024 (NYSCEF Doc. No. 36).

Due to Defendants’ failure to comply with their discovery obligations in this matter, the Court issued its Decision and Order granting Plaintiff’s unopposed motion to preclude on June 13, 2025. NYSCEF Doc. No. 53 (6/13/25 Decision and Order). Plaintiff filed the instant motion on September 25, 2025. Defendants did not file any opposition in response.

Legal Discussion

Under CPLR § 3212, “the proponent of a summary judgment motion must make a *prima facie* showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact.” *Alvarez v. Prospect Hosp.*, 68 N.Y.2d 320, 324 (1986)(citations omitted). Once the movant has made such a showing, the burden shifts to the opposing party to demonstrate, with admissible evidence, facts sufficient to require a trial, or summary judgment will be granted. *See Winegrad v. New York Univ. Med. Ctr.*, 64 N.Y.2d 851, 853 (1985). “[S]ummary judgment may be granted as to one or more causes of action, or part thereof, in favor of any one or more parties, to the extent warranted, on such terms as may be just.” CPLR § 3212 (e).

CPLR § 3211 (b) provides that a motion to dismiss may be based on the ground that “a defense is not stated or has no merit,” and in addressing such motion, “the court should apply the same standards it applies to motions to dismiss pursuant to CPLR 3211 (a)(7).” *Bank of America, N.A. v. 414 Midland Ave. Assocs., LLC*, 78 A.D.3d 746, 748–749 (2d Dept. 2010). Allegations of “bare legal conclusions” without credible supporting statements are not entitled to consideration. *Ullmann v. Norma Kamali, Inc.*, 207 A.D.2d 691 (1st Dept. 1994).

Plaintiff has established that it is entitled to summary judgment on the First, Third, Fourth, Fifth, Sixth, Eighth, and Ninth Causes of Action as and against Defendants Lightbridge, Mihir, and Sangeeta. Defendants raise no triable issues of material fact as to their respective obligations to Plaintiff under the SBA Loan, Guarantys, and Security Agreement. Plaintiff has demonstrated the execution of the SBA Loan (Dixon Aff. at ¶ 6), the Mihir and the Sangeeta Guarantys (*id.*), and the Security Agreement (*id.*). Plaintiff has established its performance thereunder and Lightbridge’s default in failing to remit its monthly installment payment on October 5, 2023, and each month thereafter. *Id.* at ¶¶ 14, 16. Plaintiff has established that Mihir and Sangeeta failed to pay sums due and owing under the SBA Note and Guarantys upon due demand. Due to Defendants failure to pay amounts due and owing, Plaintiff has further demonstrated its entitlement to immediate possession of all Collateral as defined under the Security Agreement. Here, the operative agreements entitle Plaintiff to expenses and attorneys’ fees arising from Plaintiff’s efforts to collect under the SBA Loan, Security Agreement, and Guarantys. *See* SBA Note at 3–4, Mihir Guaranty at 3, Sangeeta Guaranty at 3, Security Agreement at 4. *See DDS Partners, LLC v. Celenza*, 6 A.D.3d 347, 349 (1st Dept. 2024).

As to Defendants’ 22 affirmative defenses, of course Defendants have set forth no argument in support of their affirmative defenses or to otherwise rebut Plaintiff’s assertion that the affirmative defenses are wholly conclusory and unsupported by the record. Therefore, the Court deems any defenses thereto as waived and abandoned. *See Kiamesha Artesian Spring Water Co. v. Concord Assoc.*, 3 A.D.3d 683, at n. 1 (3d Dept. 2004). Accordingly, the Court dismisses Defendants’ affirmative defenses with prejudice.

Accordingly, it is hereby

ORDERED that Plaintiff’s Motion for Summary Judgment (Motion 002) is GRANTED as to the First, Third, Fourth, Fifth, Sixth, Eighth, and Ninth Causes of Action as and against Defendants Lightbridge, Mihir, and Sangeeta; and it is further

ORDERED that Defendants’ affirmative defenses alleged in the Amended Answer are dismissed with prejudice; and it is further

ORDERED that Plaintiff shall file a proposed judgment to the Clerk consistent with this Order within fourteen (14) days of the e-filing of this Decision and Order; and it is further

ORDERED that the Clerk is directed to enter judgment accordingly; and it is further

ORDERED that the inquest into the amount of reasonable attorneys’ fees, costs, and expenses pursuant to Plaintiff’s Sixth, Eighth, and Ninth Causes of Action is referred to a Judicial Hearing Officer (“JHO”) or Special Referee; and it is further

ORDERED that a JHO or Special Referee shall be designated to hear and report to this Court on the amount of reasonable attorneys’ fees, costs, and expenses pursuant to Plaintiff’s Sixth, Eighth, and Ninth Causes of Action, which is hereby submitted to the JHO/Special Referee for such purpose; except that, in the event and upon filing a stipulation of the parties as permitted by CPLR § 4317, the JHO/Special Referee shall determine aforesaid issues; and it is further

ORDERED that counsel for Plaintiff shall serve a copy of this Decision and Order with Notice of Entry and a completed Information Sheet, upon the Special Referee Clerk in the General Clerk’s Office (Room 119), within fourteen (14) days of this e-filing of this Decision and Order; and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk (spref@nycourts.gov, Room 119 or 646-386-3028) for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this court at www.nycourts.gov/supctmanh at the “References” link), shall assign this matter at the initial appearance to an available JHO/Special Referee to hear and report as specified above; and it is further

ORDERED that this action remains as STAYED as against Defendant Bhimjiani pursuant to this Court’s Decision and Ordered dated August 8, 2025, and is otherwise disposed as to Defendants Mergen Inc. d/b/a Lightbridge Academy, Mihir Daiya, and Sangeeta Daiya.

The foregoing constitutes the Decision and Order of this Court.



ANAR R. PATEL, A.J.S.C.

12/1/2025

DATE

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