

**RS E Orange LLC v Proudliving Cos., LLC**

2025 NY Slip Op 34648(U)

December 3, 2025

Supreme Court, New York County

Docket Number: Index No. 655013/2023

Judge: Anar R. Patel

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This opinion is uncorrected and not selected for official publication.

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

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RS E ORANGE LLC,	<b>INDEX NO.</b>	<u>655013/2023</u>
Plaintiff,	<b>MOTION DATE</b>	<u>10/08/2025</u>
- v -	<b>MOTION SEQ. NO.</b>	<u>003</u>
PROUDLIVING COMPANIES, LLC, ANDREW BROWN	<b>DECISION + ORDER ON MOTION</b>	
Defendants.		

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**HON. ANAR RATHOD PATEL:**

The following e-filed documents, listed by NYSCEF document number (Motion 003) 55–61, 65 were read on this motion to/for JUDGMENT – SUMMARY.

Plaintiff RS E Orange LLC (“Plaintiff”) moves pursuant to CPLR § 3212, granting summary judgment in its favor for breach of contract against Defendant Proudliving Companies, LLC (“PL”), and seeks to recover \$3,999,272.00 plus attorneys’ fees and costs. Defendant PL has not opposed the motion. For the reasons as set forth herein, Plaintiff’s Motion is granted in part, and the Court directs an inquest into Plaintiff’s damages.

**Relevant Factual and Procedural Background**

The Court refers to and incorporates the summary of relevant factual and procedural background as set forth in the Court’s (Chan, J.) prior Decisions and Orders on Plaintiff’s Motion for Summary Judgment in Lieu of Complaint (NYSCEF Doc. No. 16) and Plaintiff’s Motion for Default Judgment against Defendant Andrew Brown (NYSCEF Doc. No. 37).<sup>1</sup>

In summary, this action arises from a March 19, 2021 Operating Agreement for PLA Six Portfolio JV LLC (the “Company”) entered into by Plaintiff and PL (“Operating Agreement”), which sets forth certain payment obligations by the Company to Plaintiff. NYSCEF Doc. No. 5 (Operating Agreement). These payment obligations are secured by the Guaranty Agreement (“Guaranty”), which requires Defendants PL and Brown to act as guarantors for the ‘Guaranteed Obligations.’ See NYSCEF Doc. No. 6 (Guaranty) at ¶ 2 (“Guaranteed Obligations” as used herein means: (a) payment and performance by the Company of the Investment to [Plaintiff] as, and to the extent required, pursuant to the LLC Agreement, plus (b) the Preferred Return, the Enhanced Preferred Return, and the Priority Preferred Return, as applicable, due and payable with respect to the Investment”). Under the Guaranty, any non-payment of monies due to Plaintiff by

<sup>1</sup> This action was transferred from Justice Chan to this Court (Patel, J.) as of August 1, 2025. NYSCEF Doc. No. 46 (Notification from Court).  
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the Company are required to be immediately paid by the Guarantors "...in full without notice or demand, and it shall not be necessary for [Plaintiff] in order to enforce such payment by [PL and Brown], first to institute suit or exhaust its remedies against the company or others." *Id.* at 4. The Guaranty also establishes that it is unconditional, and that Defendants waive any defenses or counterclaims against Plaintiff. *Id.* at ¶¶ 3, 9. The Guaranty does not specify any amount of money Defendants must pay.

Plaintiff alleges that, beginning in January 2023, the Company ceased making monthly payments pursuant to the Operating Agreement and engaged in Bad Acts and Material Defaults as defined thereunder, all of which caused the Company to owe the Full Redemption Price. *See* Starr Aff. at ¶¶ 7, 17. On March 7, 2023, Plaintiff sent a letter notice of Material Defaults/Bad Acts, and demanded that Defendants pay \$3,439,231 in satisfaction of the Guaranty. *Id.* at ¶¶ 18–19; NYSCEF Doc. No. 7 (3/7/23 Letter). In response, Plaintiff and the Company engaged in discussions to resolve the issues and entered into an August 17, 2023 agreement ("Discussion Agreement"), whereby the Company and Defendants agreed that Events of Default and Material Defaults had occurred and that Plaintiff was entitled to proceed with all rights, remedies, and legal causes of action provided for under the Operating Agreement. NYSCEF Doc. No. 9 (Discussion Agreement).

The Court observes that Justice Chan denied Plaintiff's Motion for Summary Judgment in Lieu of Complaint based upon a finding that "the amount specified by Plaintiff (\$3,999,272.00) is not 'readily ascertainable' on the face of the Guaranty or the Agreement." NYSCEF Doc. 16 at 4. Justice Chan further states, "nowhere in the documents is there a specific stipulation that Defendant owes \$2,999,272.00) or a cap on recovery that would be applicable to these facts." *Id.* (internal citations omitted). In the instant motion, Plaintiff relies upon the same set of documents, including the Affirmation of Jared Starr, an "authorized person" for Plaintiff, which summarily asserts "[a]s a result, there can be no factual dispute of any kind concerning the Events of Default, Mandatory Redemption and Guarantors obligations to pay Plaintiff the entire \$3,999,272 that is due and owing as of September 30, 2023." NYSCEF Doc. No. 3 ("Starr Aff.") at ¶ 25.

Plaintiff filed the instant motion for summary judgment on October 8, 2025. Defendant PL has not responded to or otherwise opposed the motion.

### 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).

Plaintiff has established that it is entitled to summary judgment for breach of contract against PL. The elements of a cause of action for breach of contract are "the existence of a contract,

the plaintiff's performance thereunder, the defendant's breach thereof, and resulting damages." *Harris v. Seward Park Hous. Corp.*, 79 A.D.3d 425, 426 (1st Dept. 2010) (citation omitted). Plaintiff has demonstrated the execution of the Operating Agreement and Guaranty—which requires PL to pay Plaintiff initially under the defined Current Pay Return (Operating Agreement at § 1.1) and thereafter, at the Full Redemption Price (*id.* at § 6.3(e)(ii)); Plaintiff's performance under the Operating Agreement by investing \$6 million in the Company pursuant to the Operating Agreement (Starr Aff. at ¶ 3); the Company's default by, *inter alia*, failing to remit monthly installment payments as of January 2023 and each month thereafter (*id.* at ¶ 7). Plaintiff has established that PL, as Guarantor, was required to make the payments to Plaintiff if the Company failed to make such required payments. Starr Aff. at ¶ 14. Plaintiff provided notice to Defendants to pay under the Guaranty, yet Defendant PL has failed to pay the sums due and owing.

However, consistent with Justice Chan's prior Decisions and Orders, Plaintiff has failed to demonstrate how it calculated the amount it seeks to recover of \$3,999,272.00. Accordingly, the Court directs an inquest to determine the amount of damages as well as the amount of costs and reasonable attorneys' fee due under the Guaranty at Section 2 ("Guaranteed Obligations" as used herein means ... (c) all costs, including, without limitation, all attorney's fees and expenses incurred by [Plaintiff] in connection with the collection and enforcement of the Guaranteed Obligations.").

Accordingly, it is hereby

**ORDERED** that Plaintiff's Motion for Summary Judgment (Motion 003) is GRANTED as to the cause of action for breach of contract, and the amount of damages, attorneys' fees, and costs is referred to an inquest; and it is further


**ORDERED** that the inquest into the amount of Plaintiff's damages, reasonable attorneys' fees, and costs is referred to a Judicial Hearing Officer ("JHO") or Special Referee for a hear and report with recommendations; 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](http://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 Plaintiff shall serve a copy of this Decision and Order by e-mail and regular mail upon Defendant PL at its last known address within ten (10) days of the e-filing of this Decision and Order, and e-file proof such service with the Court.

The foregoing constitutes the Decision and Order of this Court.

12/3/2025					
DATE			ANAR R. PATEL, A.J.S.C.		
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input checked="" type="checkbox"/>
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					REFERENCE