

**Bldg 44 Devs. LLC v Pace Cos. N.Y., LLC**

2026 NY Slip Op 30041(U)

January 5, 2026

Supreme Court, New York County

Docket Number: Index No. 650390/2020

Judge: Andrea Masley

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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 48

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BLDG 44 DEVELOPERS LLC,

Plaintiff,

- v -

THE PACE COMPANIES NEW YORK, LLC D/B/A THE  
PACE COMPANIES,

Defendant.

INDEX NO. 650390/2020

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. 013

**DECISION + ORDER ON  
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 013) 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439

were read on this motion to/for JUDGMENT - DEFAULT.

“On a motion for a default judgment under CPLR 3215 based upon a failure to answer the complaint, a plaintiff demonstrates entitlement to a default judgment against a defendant by submitting: (1) proof of service of the summons and complaint; (2) proof of the facts constituting its claim; and (3) proof of the defendant's default in answering or appearing.” (*Medina v Sheng Hui Realty LLC*, 2018 WL 2136441, \*6-7 [Sup Ct, NY County 2018] [citations omitted].) When the complaint is not verified, “CPLR 3215 (f) requires that an applicant for a default judgment file proof by affidavit made by the [moving] party of the facts constituting the claim.” (*Woodson v Mendon Leasing Corp.*, 100 NY2d 62, 70 [2003].)

Proof of Service and Default

Here, defendant was served and with summons and complaint (NYSCEF 2, aff of service), initially appeared by counsel, and participated in the action via counsel. Following counsel's withdrawal on April 23, 2025, defendant failed to retain replacement

counsel (NYSCEF 397, Papadakis aff ¶ 4), which constitutes default in appearing.

Accordingly, plaintiff submitted proof of service and default.

### Proof of Claim

CPLR 3215(f) requires that an applicant for a default judgment submit “proof of the facts constituting the claim,” e.g. plaintiff’s affidavit or a verified complaint. (See *Woodson*, 100 NY2d at 70 [citation omitted].) “Some proof of liability is also required to satisfy the court as to the prima facie validity of the uncontested cause of action. The standard of proof is not stringent, amounting only to some firsthand confirmation of the facts.” (*Feffer v Malpeso*, 210 AD2d 60, 61 [1st Dept 1994] [citations omitted].)

Plaintiff alleges claims for breach of contract and breach of express warranty. (NYSCEF 435, Summons and Complaint.) In support of its motion, plaintiff submits the affidavit of Kevin Tartaglione, Senior Vice President of plaintiff’s parent corporation. (NYSCEF 416, Tartaglione aff.) Tartaglione details defendant’s breaches, including defendant’s defective and incomplete work regarding the HVAC system (*id.* ¶¶ 10-13) and defendant’s delays (*id.* ¶¶ 14-17). Tartaglione also details defendant’s warranty of its work. (*id.* ¶ 8.) Such is sufficient proof of its claims.

### Damages

The issue of damages is referred to a referee, and in accordance with this court’s prior decisions, shall not include consequential damages.

Accordingly, it is

ORDERED that the plaintiff’s motion for a default judgment is granted; and it is further

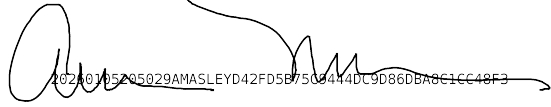
ORDERED that a Judicial Hearing Officer or Special Referee shall be designated to hear and report on the following issue, which is hereby submitted to the JHO/Special Referee to calculate the amount of actual damages defendant owes to plaintiff for breach of contract and breach of warranty; and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk (Room 119, 646-386-3028 or spref@nycourts.gov) for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SPR), which, in accordance with the Rules of that Part, shall assign this matter at the initial appearance to an available JHO/Referee to hear and report as specified above except that, in the event of and upon the filing of a stipulation of the parties, as permitted by CPLR 4317, the Special Referee, or another person designated by the parties to serve as Referee, shall determine the aforesaid issue; and it is further

ORDERED that counsel shall immediately consult one another and plaintiff's counsel shall, within 15 days from the date of this Order, submit to the Special Referee Clerk by fax (212-401-9186) or e-mail (spref@nycourts.gov) an Information Sheet (accessible at the "References" link on the court's website) containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise counsel for the parties of the date fixed for the appearance of the matter upon the calendar in the Special Referees Part; and it is further

ORDERED that counsel shall file memoranda or other documents directed to the assigned JHO/Referee in accordance with the Uniform Rules of the Judicial Hearing Officers and Special Referees and by filing the same with NYSCEF; and it is further

ORDERED that any motion to confirm or disaffirm the Report of the JHO/Referee shall be made within the time and in the manner specified in CPLR 4403 and Section 202.44 of the Uniform Rules for the Trial Courts.



1/5/2026  
DATE

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ANDREA MASLEY, 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"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER			<input type="checkbox"/>	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN			<input type="checkbox"/>	REFERENCE