

<b>Board of Mgrs. of the 75 Kenmare St. Condominium v Kok Kit Lee</b>
2026 NY Slip Op 30124(U)
January 2, 2026
Supreme Court, New York County
Docket Number: Index No. 151896/2025
Judge: Francis A. Kahn III
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. FRANCIS A. KAHN, III PART 32

Justice

INDEX NO. 151896/2025

BOARD OF MANAGERS OF THE 75 KENMARE STREET CONDOMINIUM,

MOTION DATE

Plaintiff,

MOTION SEQ. NO. 001

- v -

KOK KIT LEE, NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, ANDREW E. HALL & SON, INC., FBTJ LLC, MERCHANT CASH AND CAPITAL LLC, BIZFI FUNDING, JOHN DOE #1 THROUGH JOHN DOE #10, THE LAST TEN NAMES BEING FICTITIOUS AND UNKNOWN TO THE PLAINTIFF, THE PERSON OR PARTIES INTENDED BEING THE PERSON OR PARTIES, IF ANY, HAVING OR CLAIMING AN INTEREST IN OR LIEN UPON THE PREMISES DESCRIBED IN THE COMPLAINT

DECISION + ORDER ON MOTION

Defendant.

The following e-filed documents, listed by NYSCEF document number (Motion 001) 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 41, 42

were read on this motion to/for JUDGMENT - DEFAULT

Upon the foregoing documents, the motion is determined as follows:

Plaintiff commenced this action to foreclose on a lien for common charges encumbering a commercial condominium unit located at 75 Kenmare Street, Unit 2G, New York, New York. All the Defendants defaulted in appearing. Now, Plaintiff moves for a default judgment against the non-appearing parties, to appoint a referee to compute, and to amending the caption. Defendant Kok Kit Lee ("Lee") opposes the motion.

"An applicant for a default judgment against a defendant must submit proof of service of the summons and complaint, proof of the facts constituting the claim, and proof of the defaulting defendant's failure to answer or appear" (Deutsche Bank Natl. Trust Co. v Silverman, 178 AD3d 898, 899 [2d Dept 2019]). A plaintiff needs "only [to] allege enough facts to enable a court to determine that a viable cause of action exists" (Woodson v Mendon Leasing Corp., 100 NY2d 62, 71 [2003]). The rationale for this minimal burden is that a defaulting party "admits all traversable allegations in the complaint, including the basic allegation of liability" (Rokina Optical Co. v Camera King, Inc., 63 NY2d 728, 730 [1984]).

Plaintiff established prima facie its entitlement to a default judgment against Lee and the other Defendants, by submitting proof of its authority to collect common charges from the owners of units, how the amounts were calculated (Board of Mgrs. of W. Amherst Off. Park Condominium v RMFSG, LLC, 153 AD3d 1611 [4th Dept 2017]; Board of Mgrs. of Natl. Plaza Condominium I v. Astoria Plaza,

LLC, 40 AD3d 564 [2d Dept 2007]), as well as proof of Defendants' failure to appear or answer (*see* CPLR §3215[f]; *SRMOF II 2012-I Trust v Tella*, 139 AD3d 599, 600 [1<sup>st</sup> Dept 2016]).

“To defeat a facially adequate CPLR 3215 motion, a defendant must show either that there was no default, or that it has a reasonable excuse for its delay and a potentially meritorious defense” (*Deutsche Bank Natl. Trust Co. v Silverman*, 178 AD3d 898, 901 [2d Dept 2020], *citing US Bank N.A. v Dorestant*, 131 AD3d 467, 470 [2d Dept 2015]). Here, Defendant Lee proffered no excuse for their default other than “mere neglect [which] is not a reasonable excuse” (*OneWest Bank, FSB v Singer*, 153 AD3d 714 [2d Dept 2017]). Absent a reasonable excuse, the Court need not determine whether Lee has presented a meritorious defense to the action (*see Pina v Jobar U.S.A. LLC*, 104 AD3d 544, 545 [1st Dept 2013]). In any event, Lee’s arguments concerning defects claimed defects in the unit and the common areas do not justify withholding payment of common charges (*see Board of Mgrs. of Villas on the Lake Condominium v. Policicchio*, 228 AD3d 610, 612 [2d Dept 2024]; *Mailman v Abbady*, 216 AD2d 115 [1st Dept 1995]).

The branch of Plaintiff’s motion to amend the caption is granted (*see generally* CPLR §3025; *JP Morgan Chase Bank, N.A. v Laszio*, 169 AD3d 885, 887 [2d Dept 2019]).

Accordingly, it is

ORDERED that Plaintiff’s motion for a default judgment against the non-appearing parties is granted; and it is further

ORDERED that **Gregory M. Laspina, Borchert & Laspina, P.C., 1902 Whitestone Expy, STE 302, Whitestone, NY 11357-3099, 718-767-3333** is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff and to examine whether the tax parcel can be sold in parcels; and it is further

ORDERED that in the discretion of the Referee, a hearing may be held, and testimony taken; and it is further

ORDERED that by accepting this appointment the Referee certifies that they are in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2 (c) (“Disqualifications from appointment”), and §36.2 (d) (“Limitations on appointments based upon compensation”), and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED that, pursuant to CPLR 8003(a), and in the discretion of the court, a fee of \$350 shall be paid to the Referee for the computation of the amount due and upon the filing of his report and the Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR 8003(b); and it is further

ORDERED that the Referee is prohibited from accepting or retaining any funds for himself or paying funds to himself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED that if the Referee holds a hearing, the Referee may seek additional compensation at the Referee’s usual and customary hourly rate; and it is further

ORDERED that plaintiff shall forward all necessary documents to the Referee and to defendants who have appeared in this case within 30 days of the date of this order and shall promptly respond to every inquiry made by the referee (promptly means within two business days); and it is further

ORDERED that if defendant(s) have objections, they must submit them to the referee within 14 days of the mailing of plaintiff's submissions; and include these objections to the Court if opposing the motion for a judgment of foreclosure and sale; and it is further

ORDERED the failure by defendants to submit objections to the referee shall be deemed a waiver of objections before the Court on an application for a judgment of foreclosure and sale; and it is further

ORDERED that plaintiff must bring a motion for a judgment of foreclosure and sale within 30 days of receipt of the referee's report; and it is further

ORDERED that if plaintiff fails to meet these deadlines, then the Court may sua sponte vacate this order and direct plaintiff to move again for an order of reference and the Court may sua sponte toll interest depending on whether the delays are due to plaintiff's failure to move this litigation forward; and it further

ORDERED that the caption be amended to substitute "Merchant Cash and Capital LLC d/b/a BIZFI Funding" in place of Defendant "Merchant Cash and Capital LLC"; and it is further

ORDERED that all the "Doe" Defendants are stricken as the New York County Clerk will not accept a judgment for filing with a "Doe" defendant in the caption; and it is further

ORDERED that the caption shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
BOARD OF MANAGERS OF THE 75 KENMARE  
STREET CONDOMINIUM,

Plaintiff,

-against-

KOK KIT LEE; NEW YORK CITY  
ENVIRONMENTAL CONTROL BOARD; ANDREW  
E. HALL & SON, INC.; FBTJLLC; MERCHANT  
CASHANDCAPITAL LLC D/B/A BIZFI FUNDING,

Defendants.

-----X

and it is further

ORDERED that counsel for plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the parties being removed pursuant hereto; and it is further

ORDERED that such service upon the County Clerk and 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)]; and it is further

ORDERED that Plaintiff shall serve a copy of this Order with notice of entry on all parties and persons entitled to notice, including the Referee appointed herein.

All parties are to appear for a virtual conference via Microsoft Teams on April 16, 2025, at 11:20 a.m. If a motion for judgment of foreclosure and sale has been filed Plaintiff may contact the Part Clerk (SFC-Part32-Clerk@nycourts.gov) in writing to request that the conference be cancelled. If a motion has not been made, then a conference is required to explore the reasons for the delay.

1/2/2026

DATE

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

APPLICATION:

SETTLE ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

SUBMIT ORDER

FIDUCIARY APPOINTMENT

REFERENCE

*Francis A. Kahn III*

FRANCIS KAHN III, A.J.S.C.  
HON. FRANCIS A. KAHN III  
J.S.C.