

Becketts HM-AA, LLC v Automotive Alliance, LLC

2026 NY Slip Op 30405(U)

February 2, 2026

Supreme Court, New York County

Docket Number: Index No. 656331/2025

Judge: James d'Auguste

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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. James d'Auguste

PART 55

Justice

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INDEX NO. 656331/2025

BECKETTS HM-AA, LLC,

MOTION DATE 12/08/2025

Plaintiff,

MOTION SEQ. NO. 001

v.

AUTOMOTIVE ALLIANCE, LLC, OSWALDO LEDEZMA,
MIGDALIA GARCIA, DAN DENG, KENNETH BALDWIN,
GIOVANNI DAGOSTINO, FIDEL PARJUS, BRIAN POLSKY,

**DECISION + ORDER ON
MOTION**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 8, 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28

were read on this motion to/for PREL INJUNCTION/TEMP REST ORDR.

BACKGROUND

On December 8, 2025, plaintiff Becketts HM-AA, LLC (“Plaintiff”), a secured lender, commenced this action against defendant Automotive Alliance, LLC (“AA”), the borrower, and several guarantors of the loan (collectively, “Defendants”), asserting claims for breach of contract and seeking foreclosure of Plaintiff’s security interest in its collateral (the “Collateral”). NYSCEF Doc. No. 1. On the same day, Plaintiff filed a motion (“Motion”), brought by order to show cause (“OSC”), seeking to: (1) enjoin Defendants from, *inter alia*, (a) transferring, selling, or otherwise disposing of the Collateral, including without limitation AA’s receivables, cash, and cash equivalents and all proceeds thereof (without any exception for payments of ordinary course of business expenses, such as inventory purchases, payroll or utilities); (b) terminating, interfering with, or otherwise restricting Plaintiff’s access to and control over the loan collection bank account (the “Collection Account”); or (c) changing AA’s business structure, or selling AA, or disposing of substantially all of its assets; (2) direct AA to deposit all receivable

payments into the Collection Account; (3) direct AA to grant Plaintiff access to AA's depositor accounts, QuickBooks and inventory management systems; (4) order Defendants to provide daily accountings to Plaintiff of all receivables, payments, cash, cash equivalents, and other funds received by AA. *Id.* Doc. No. 2 (Motion Sequence 001).

The Motion further asked the Court to issue a temporary restraining order ("TRO") granting to Plaintiff, pending the hearing and determination of the Motion, all of the foregoing relief, plus a mandate that Defendants, within five days of the service of the OSC, provide a sworn written accounting that identified all deposit accounts holding Collateral funds, including, without limitation, the current balance and the ten most recent days of transaction activity and all transfers from such accounts from July 1, 2025, to present. *Id.*

Unable to find clear documentary support for many of Plaintiff's proposed TRO provisions, the Court: (1) entered the OSC with certain revisions to the requested relief; (2) permitted Plaintiff to submit supplemental papers on the issue; and (3) asked the parties to appear for a preliminary court conference to address the TRO and other matters. NYSCEF Doc. No. 11. Plaintiff filed its supplemental papers on December 17, 2025. *Id.* Doc. No. 12. On December 22, 2025, the conference was held before Special Master Andrew J. Lorin, Esq., after which the Court elected not to amend the OSC as previously entered.

On January 6, 2026, AA and several other defendants (the "AA Defendants") submitted their opposition papers. *Id.* Doc. Nos. 16-17. On January 8, 2026, Plaintiff submitted its reply papers. *Id.* Doc. No. 18. On January 29, 2026, oral argument on the Motion was held before Special Master Lorin. After oral argument, which was skillfully presented by all counsel, the Motion was submitted.

Now, based upon the recommendation of Special Master Lorin and this Court's independent review of the record, the Court hereby enters the following determination.

ANALYSIS

I. Applicable Standard

“The party seeking a preliminary injunction must demonstrate a probability of success on the merits, danger of irreparable injury in the absence of an injunction and a balance of equities in its favor.” *Nobu Next Door, LLC v. Fine Arts Hous., Inc.*, 4 N.Y.3d 839, 840 (2005).

However, this standard is heightened where the movant seeks a mandatory injunction:

The movant for a mandatory injunction is rightfully held to a higher standard where: (i) an injunction will alter, rather than maintain, the status quo, or (ii) an injunction will provide the movant with substantially all the relief sought and that relief cannot be undone even if the defendant prevails at a trial on the merits.

Shake Shack Fulton St. Brooklyn, LLC v Allied Prop. Group, LLC, 177 A.D.3d 924, 927 (2d Dept 2019); *see also Borini v. Sixty Sutton Corp.*, 2019 N.Y. Slip Op. 32489[U], 4 (Sup. Ct., New York County 2019) (plaintiff established higher standard of “clear right” to relief). A mandatory injunction “is an extraordinary and drastic remedy which is rarely granted and then only under unusual circumstances” *Id.*

Here, Plaintiff’s Motion seeks an order compelling AA to perform a number of affirmative acts that could alter the current status quo, including directing AA to: (1) deposit all receivable payments into the Collection Account; (2) grant Plaintiff access to and control over AA’s depositor accounts; (3) grant Plaintiff contemporaneous access to AA’s QuickBooks and inventory management systems; and (4) provide daily accountings to Plaintiff of all receivables, payments, cash, cash equivalents, and other funds received by AA. *Id.* Doc. No. 2. Further, the proposed order would, by requiring AA to funnel all receivables payments into the loan “Collection Account” and sequester them there, essentially provide Plaintiff its ultimate relief, *i.e.* repayment of the loan. *Id.* Doc. No. 1.

Accordingly, Plaintiff bears a heightened burden of establishing a clear right to its requested preliminary injunction. As discussed below, Plaintiff has not met that burden, and its motion is, therefore, denied.

II. Likelihood of Success

While a secured creditor alleging a payment default often has a straightforward path to success on the merits of its breach of contract action, here, the AA Defendants have alleged, with significant specificity, defenses that raise questions about the strength of Plaintiff's claims.

The AA Defendants assert that Plaintiff breached its duty of good faith and fair dealing and in so doing was the actual cause of any default. In particular, the AA Defendants assert that Plaintiff, *inter alia*: (1) unilaterally, and without basis in the loan documents, increased the loan interest rate from 10% to 18% over three years; (2) purposely delayed disbursement of a promised \$1.2 million cash infusion; (3) manipulated the borrowing base for its own purposes by instructing AA not to deliver a borrowing base certificate and to include items that were non-eligible collateral; (4) demanded that certain officers and directors of AA be terminated without compensation; (5) instructed AA to cut off compensation for passive investors; (6) caused AA to default on a privately funded loan, leading to unnecessary litigation; (7) used AA to funnel money to friends and family of Dipak Jogia, the principal of Plaintiff; (8) pressured AA to use its limited cash to pay for the unneeded services of We-Chartered and Prima Alpha, companies owned by Mr. Jogia and his wife, respectively; (9) demanded that AA replace defendant Dagostino with an outside company, Fuse5, as manager of AA's inventory facility, which resulted in such disruptions and added costs that Plaintiff later reversed its decision; (10) interfered with AA's negotiations with an investor, causing the investor to withdraw its letter of intent to provide AA with \$5 million in funding; (11) demanded that AA hold unnecessary weekly meetings with Plaintiff's personnel to review AA's operations, financial

condition, and management decisions; (12) demanded that AA establish an unnecessary advisory board composed entirely of Plaintiff's personnel; (13) inserted Plaintiff's personnel into AA's operations, workflows, and vendor relationships, including communicating directly with AA's suppliers and counterparties; and (14) attempted to strong-arm AA into selling 33% of the company to Mr. Jogia as Plaintiff was pressuring and asserting control over AA. NYSCEF Doc. No. 17 at 6-9; *id.* Doc. No. 16 ¶¶ 21-62.

The AA Defendants contend that Plaintiff's and Mr. Jogia's assumption of control over AA's executive decision-making, as well as their self-dealing and interference with AA's operations and business relationships, breached Plaintiff's duty of good faith and fair dealing and created a fiduciary duty that Plaintiff also breached. While the legal and factual hurdles for the AA Defendants to demonstrate the breach by Plaintiff of a fiduciary duty to AA are quite demanding, the hurdles to show that Plaintiff breached its duty of good faith and fair dealing under these circumstances are not quite so daunting.

The AA Defendants' papers assert that Plaintiff acted to constrain AA's business, to create liquidity crises to increase Plaintiff's leverage, and to ultimately expand control over AA. NYSCEF Doc. No. 16 at 7. That control included firing officers, removing passive investors, funneling money to Plaintiff-affiliated persons and entities, interfering with alternative financing negotiations, and assuming increasing control over AA's daily operations, such as by communicating directly with AA's suppliers and counterparties. *Id.* at 8-14. Indeed, the AA Defendants' narrative is echoed to some extent by Plaintiff's attempted assertions of control over AA in this proceeding. For example, Plaintiff seeks a preliminary order that would mandate that AA give Plaintiff access and control over AA's deposit accounts and contemporaneous access to AA's financial and management systems, as well as a sworn and unlimited written accounting of all deposit accounts holding Collateral funds going back to July 1, 2025 (NYSCEF Doc. No. 2),

even though Plaintiff did not establish in its papers clear entitlement under the transactional documents to most of this requested relief. *Id.* Doc. No. 3. Moreover, Plaintiff's proposed OSC's failure to provide any exception for payment of any ordinary course of business expenses would create extraordinary leverage over AA.

Given the AA Defendants' detailed allegations regarding Plaintiff's and Mr. Jogia's control over AA management, self-dealing, and efforts to push AA into subservience and financial crisis, followed by an attempt to transfer equity control in AA to Mr. Jogia, the AA Defendants have provided facts that would likely support a pleading by the AA Defendants of an affirmative defense and/or counterclaim that Plaintiff breached its duty of good faith and fair dealing by acting to deprive AA of the fruits of the loan agreement. *E.g.*, *511 W. 232nd Owners Corp. v. Jennifer Realty Co.*, 98 N.Y.2d 144, 153 (2002); *Parlux Fragrances, LLC v. S. Carter Enters., LLC*, 204 A.D.3d 72, 92 (1st Dept 2022).

Given the very early stage of this litigation, the Court cannot predict whether the AA Defendants' defenses will be able to prevail over Plaintiff's claims. However, as noted, it is Plaintiff that bears the heightened burden of demonstrating, *inter alia*, a clear likelihood of success on the merits. Under these circumstances, the Court cannot conclude with confidence that Plaintiff has fully carried its heightened burden of demonstrating that it has a clear ability to defeat the asserted defenses to its claims.

III. Irreparable Harm

Even if Plaintiff were able to demonstrate a clear likelihood of success on the merits, Plaintiff would be hard-pressed to establish irreparable harm. At bottom, Plaintiff is asserting claims for breach of loan and guaranty agreements pursuant to which it is seeking repayment of its loan. That recoupment can, absent extraordinary circumstances not present here, be redressed by money damages. Importantly, Plaintiff has not alleged that the AA Defendants are

misappropriating or dissipating funds, nor have they asserted that any irreparable harm to Plaintiff is imminent. *E.g., Golden v. Steam Heat, Inc.*, 216 A.D.2d 440, 442 (2d Dept 1995) (“the irreparable harm must be shown by the moving party to be imminent, not remote or speculative”).

Accordingly, this is an ordinary loan repayment dispute – an argument over money that can, if Plaintiff prevails, be judicially resolved at law by a money judgment.

Absent an injunction, AA will be able to spend its cash the way it has during the course of the lending relationship – on loan repayments to Plaintiff, on new inventory to generate further income for AA, and on business necessities, such as payroll and utilities. Thus, denial of the Motion will maintain the status quo in the case. The risk that a borrower’s management may at times choose to prioritize business expenses over debt service is a normal risk that all lenders like Plaintiff undertake when entering into a lending relationship. Moreover, the risk appears to be somewhat diminished in this case where Plaintiff has allegedly actively participated in the management of AA’s business. Of course, if Plaintiff were to learn that AA was dissipating its assets to defraud its creditors, then Plaintiff might have a stronger case for establishing irreparable harm and could reapply for an injunction at such time.

In addition, the Court must weigh not only the potential irreparable harm of denying the Motion, but also the potential irreparable harm of granting the Motion. The AA Defendants have firmly asserted that “[t]he imposition of the proposed preliminary injunction would be ... fatal. As requested, the preliminary injunction would force Automotive Alliance to cease operations immediately, terminate its workforce, and shutter the business altogether [] – an irreparable and catastrophic result.” *Id.* Doc. No. 17 at 13. In other words, the AA Defendants have plausibly argued that there is significant risk that the issuance of the proposed preliminary injunction will cause irreparable harm *to defendant AA*. A court must be especially careful in a situation such as

this because the closing of an operating business is a serious consequence that ordinarily “cannot be undone even if the defendant prevails at a trial on the merits.” *Shake Shack*, 177 A.D.3d at 927.

Considering all of the foregoing, the Court finds that Plaintiff has failed to carry its burden of showing that it will suffer irreparable harm if the Court does not issue the requested preliminary injunction.

IV. Balance of Equities

Even if Plaintiff were able to carry its burden of establishing a clear likelihood of success on the merits and irreparable harm, Plaintiff cannot show that the balance of equities tilts in its favor. As an initial matter, when a movant fails to establish irreparable harm, the balance of the equities generally will not tip in its favor. *E.g., J.S. Anand Corp. v. Aviel Enters. Inc.*, 148 A.D.2d 496, 497 (2d Dept 1989) (absent a showing of “irreparable injury ... the balance of the equities favored the defendants”); *Marsh & McLennan Cos. v. Feldman*, 2019 WL 4750381, at *5 (Sup. Ct. N.Y. County Sept. 30, 2019).

Moreover, as noted, the Court must weigh the peril that entry of a preliminary injunction will be fatal to AA against the risk that non-entry of the injunction may possibly reduce Plaintiff’s ability to collect on a judgment should it prevail in the litigation. In this balancing, the Court must also consider that: (1) it is far from certain at this very early stage of the litigation which party will ultimately prevail; and (2) Plaintiff has failed to show that AA is (absent the injunction) in imminent danger of collapse or that AA has been dissipating its assets to defraud its creditors.

Under these circumstances, the Court finds that the equities weigh appreciably in the AA Defendants’ favor and that the instant case is not one of those “rare” and “unusual

circumstances” which would require the issuance of the “extraordinary and drastic remedy” that is a mandatory injunction.

The Court has reviewed and considered Plaintiff’s other arguments and determined that they do not alter the Court’s holdings as set forth above.

Accordingly, for the foregoing reasons, it is hereby

ORDERED that Motion Sequence 001 is denied and the TRO previously issued (in NYSCEF Doc. No. 11) is hereby lifted; and it is further

ORDERED that Defendants shall respond to the complaint within 30 days hereof.

This constitutes the decision and order of the Court.¹

2/02/2026

DATE

James d’Auguste, J.S.C.

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

¹ The Court appreciates the invaluable assistance of Special Master Andrew J. Lorin, Esq., in connection with this matter.