

Suarez v New York Univ.
2026 NY Slip Op 30417(U)
February 3, 2026
Supreme Court, New York County
Docket Number: Index No. 159960/2023
Judge: Leslie A. Stroth
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LESLIE A. STROTH PART 12M

Justice

-----X

ALEXANDER ERNESTO RANGEL SUAREZ,

Plaintiff,

- v -

NEW YORK UNIVERSITY,

Defendant.

-----X

NEW YORK UNIVERSITY

Plaintiff,

-against-

EDIFICE DESIGN, INC.

Defendant.

-----X

NEW YORK UNIVERSITY

Plaintiff,

-against-

RNS RESTORATION, INC.

Defendant.

-----X

INDEX NO. 159960/2023

MOTION DATE 10/17/2025, 12/10/2025,

MOTION SEQ. NO. 003 004

DECISION + ORDER ON MOTION

Third-Party Index No. 595047/2024

Second Third-Party Index No. 595679/2025

The following e-filed documents, listed by NYSCEF document number (Motion 003) 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88

were read on this motion to/for JUDGMENT - DEFAULT

The following e-filed documents, listed by NYSCEF document number (Motion 004) 90, 91, 92, 93, 94, 95

were read on this motion to/for AMEND CAPTION/PLEADINGS

Plaintiff commenced this action on October 11, 2023 against Defendant New York University (“NYU”) after Plaintiff was injured while performing construction work on a building owned by NYU. On January 12, 2024, NYU filed a third-party complaint against Edifice Design Inc. On July 18, 2025, NYU filed a second third-party complaint against RNS Restoration, Inc. (“RNS”).

In Motion Sequence 003, defendant NYU moves for default judgment pursuant to CPLR § 3215 against second third-party defendant, RNS Restoration, Inc., for failure to appear through service of an answer. In Motion Sequence 004, Plaintiff moves to serve a supplemental summons and amended verified complaint, pursuant to CPLR § 3025(b), naming Edifice Design, Inc. as an additional defendant. For the reasons outlined below, defendant NYU’s motion for default judgment against RNS Restoration, Inc., is granted; and plaintiff’s motion to serve a supplemental summons and amended verified complaint, naming Edifice Design, Inc. as an additional defendant, is granted.

An application for a default judgment must be supported with “proof of service of the summons and complaint [,] ... proof of the facts constituting the claim, [and] the default” (CPLR § 3215[f]). In addition to furnishing proof of service, the plaintiff must offer “some proof of liability... to satisfy the court as to the prima facie validity of the uncontested cause of action” (*Fefer v Malpeso*, 210 AD2d 60, 61 [1st Dept 1994]). “The standard of proof is not stringent, amounting only to some firsthand confirmation of the facts” (*id.*). “[A] complaint verified by someone or an affidavit executed by a party with personal knowledge of the merits of the claim” satisfies this statutory requirement (*Beltre v Babu*, 32 AD2d 722, 723 [1st Dept 2006]). The second third-party defendant failed to file any opposition.

Here, Defendant NYU provided proof of service upon the defaulting party (NYSCEF Doc. Nos. 85 and 86). Defendant NYU's complaint against RNS alleges that RNS is liable for contractual indemnification, common law indemnification, contribution, and breach of contract for failure to procure insurance (NYSCEF Doc. No. 83). Defendant NYU also submitted an affidavit of merit further outlining RNS' liability (NYSCEF Doc. No. 88). According to the affidavit of merit (*Id.*):

“RNS... is required to defend, indemnify and hold harmless [NYU] from and against any and all losses, claims, causes action, lawsuits, costs, damages and expenses arising out of, or in connection with any act or omission of the Subcontractor [RNS].

“Further, RNS was required to maintain a general liability insurance against claims of bodily injury, death, and property damage to the limit of no less than \$1,000,000 and include NYU as an additional insured on a primary and non-contributory basis... Upon information and belief, RNS employed the plaintiff at the time of the incident while he was performing work at [the subject premises].”

Second third-party defendant failed to file any opposition. Therefore, Defendant NYU's motion for default judgment against second third-party Defendant, RNS, is granted.

Pursuant to CPLR § 3025(b), “A party may amend his or her pleading, or supplement it by setting forth additional or subsequent transactions or occurrences, at any time by leave of court or by stipulation of all parties. Leave shall be freely given upon such terms as may be just. Any motion to amend or supplement pleadings shall be accompanied by the proposed amended or supplemental pleading clearly showing the changes or additions to be made to the pleading.”

“In general, motions for leave to amend a pleading should be granted unless the proposed amendment is palpably insufficient or patently devoid of merit, or where the delay in seeking the amendment would cause prejudice or surprise” (*Corwise v Lefrak Org.*, 93 A.D.3d 754 [2nd Dept 2012]). “Prejudice requires that the ‘[opposing party] has been hindered in the preparation of his

case or been prevented from taking some measure in support of his position.” (*RCLA, Inc. v 50-09 Realty, LLC*, 48 A.D.3d 538, 539, 852 NYS2d 211 [2d Dept 2008], quoting *Loomis v Civetta Corinno Constr. Corp.*, 54 NY2d 18, 23, 444 NYS2d 571, 429 N.E.2d 90 [Ct App 1981]).

In *MBIA Ins.*, the Court held that “on a motion for leave to amend, [a party] need not establish the merit of its proposed new allegations, but simply show that the proffered amendment is not palpably insufficient or clearly devoid of merit” (*MBIA Ins. Corp. v. Greystone & Co.*, 74 A.D.3d 499 [1st Dept 2010]; see also *Cruz v. Brown*, 129 A.D.3d 455 [1st Dept 2015]).

Plaintiff attaches a proposed amended verified complaint, naming Edifice Design, Inc. as a Defendant. Plaintiff does not raise new theories of fact or liability, and no opposition has been filed by Defendant Edifice Design, Inc. alleging prejudice. Plaintiff has complied with the requirements of CPLR § 3025, and no showing of prejudice toward Edifice Design, Inc. has been made. For these reasons, Plaintiff’s motion to serve a supplemental summons and amended verified complaint, naming additional defendant Edifice Design, Inc., is granted.

Accordingly, it is hereby

ORDERED, that Defendant’s motion for default judgment against second third-party defendant, RNS Restoration, Inc., and setting this matter down for an inquest and assessment as to damages is granted,

ORDERED, that the inquest and assessment of damages against the second third-party defendant RNS Restoration, Inc., shall be tried with remaining action.

ORDERED, that Plaintiff’s motion to serve a supplemental summons and amended verified complaint, naming additional defendant Edifice Design, Inc., is granted;

ORDERED that the action shall bear the following caption:

-----X INDEX NO. 159960/2023

ALEXANDER ERNESTO RANGEL SUAREZ,
 Plaintiff,
 - v -
 NEW YORK UNIVERSITY, and EDIFICE DESIGN, INC.,
 Defendants.

-----X

NEW YORK UNIVERSITY Third-Party
 Index No. 595047/2024
 Plaintiff,
 -against-
 EDIFICE DESIGN, INC.
 Defendant.

-----X

NEW YORK UNIVERSITY Second Third-Party
 Index No. 595679/2025
 Plaintiff,
 -against-
 RNS RESTORATION, INC.
 Defendant.

-----X

ORDERED that counsel for the moving party shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the Clerk of the General Clerk’s Office (60 Centre Street, Room 119), who are directed to mark the court’s records to reflect the parties being added 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/suptctmanh]).

The foregoing constitutes the decision and order of the court.

2/3/2026
DATE

[Handwritten Signature]
~~NON. LEGALISTAS BROT~~
J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

J.S.C.

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE