

Motor Veh. Acc. Indem. Corp. v Collado

2026 NY Slip Op 30453(U)

February 5, 2026

Supreme Court, New York County

Docket Number: Index No. 452935/2024

Judge: Lyle E. Frank

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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. LYLE E. FRANK PART 11M

Justice

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INDEX NO. 452935/2024

MOTOR VEHICLE ACCIDENT INDEMNIFICATION CORPORATION,

MOTION DATE 11/02/2025

Plaintiff,

MOTION SEQ. NO. 001

- v -

JEFRY BAEZ COLLADO, WILSON FERNANDEZ COLLADO

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23

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

Upon the foregoing documents, the motion is granted in part.

Background

In August of 2020, an uninsured motor vehicle driven by defendant Wilson Fernandez Collado struck and injured a pedestrian in Brooklyn. According to the police accident report, Defendant Wilson told the responding officer that the vehicle was registered under his cousin's name, defendant Jefry Baez Collado. Plaintiff is a corporation with the statutory responsibility of processing claims involving uninsured vehicles. They entered into a settlement with the injured party in the amount of \$25,000 in November of 2021. Plaintiff then investigated the claim pursuant to Section 5209 of the Insurance Law, during the course of which the ownership of the vehicle in question was determined solely via recourse to the responding officer's report. This underlying proceeding was filed in October of 2024, naming Jefry and Wilson as defendants and seeking a judgment in the amount of \$26,150.00 plus interest from the date of the settlement.

Defendant Jefry was served on November 8, 2024, via service at his residence with a relative of suitable age and discretion. The summons and complaint were also mailed to him at that address. He has failed to timely answer but has appeared in this action. Defendant Wilson was served at his residence via service on a co-habitant of suitable age and discretion, as well as by mail to that address. To date, Defendant Wilson has failed to answer or appear in this action. Plaintiff now moves for default judgment against both defendants. Defendant Jefry opposes the motion.

Discussion

In support of their motion, Plaintiff has provided affidavits of service, the responding officer's report, and an affirmation from Plaintiff's counsel attesting to the facts based on her review of the file and from Plaintiff's president in charge of collection. As Defendant Wilson failed to appear or oppose this motion, and Plaintiff has submitted sufficient evidence establishing their prima facie entitlement, the motion is granted as to Defendant Wilson. *See* CPLR § 3215. While Plaintiff requests pre-judgment interest, however, they fail to provide any basis for such a request and therefore the motion is denied as to Defendant Wilson solely to the extent of granting pre-judgment interest.

In his opposition to the motion, Defendant Jefry (acting *pro se*) states that he first became aware of this matter when he was contacted by a claims investigator. He states that the car is not now and never has been registered to him. The claims investigator allegedly told him that Defendant Wilson had agreed to pay the matter and sent him documents to that effect. He also claims to have gone to the police station multiple times to report a fraudulent registration, only to be told that the car has never been registered under his name and therefore no report can be filed. He stated in oral argument and in the papers that he believed that the matter had been taken care

of, was in communication with Plaintiff, and, unfamiliar with the legal system, was not aware that he needed to formally answer. Plaintiff states that Defendant Wilson did settle with them but has since failed to make required payments.

CPLR § 3012(d) permits a court, upon application, to extend the time for a party to appear or plead “upon such terms as may be just and upon a showing of reasonable excuse for delay or default.” In their papers, Plaintiff mistakenly cite to the Second Department test for opposing a default motion and the test for vacating a default judgment under CPLR § 3215. In the First Department, while the showing of a reasonable excuse and a meritorious defense are required for vacating a default judgment that has already been granted, when a party instead opposes a motion seeking default judgment only a reasonable excuse is required. *See, e.g., Watts v. Garcia*, 222 A.D.3d 568, 568 [1st Dept. 2023]; *c.f. Corvera v. Prime Source Dev., LLC*, 172 A.D.3d 1161, 1162 – 63 [2nd Dept. 2019]. Here, Defendant Jefry has made a sufficient showing of a reasonable excuse. Given the statements regarding the settlement made by the other defendant, and pro se Defendant Jefry’s prompt response to the matter once he became aware of it (via attempting repeatedly to report the fraudulent registration and communications with both Plaintiff’s counsel and claims investigator), the Court is satisfied that Defendant Jefry has a reasonable excuse for his failure to answer.

While the Court need not address the matter of a meritorious defense, for the reasons given above, it will do so briefly. In opposition, Defendant Jefry asks the Court to dismiss this action but has not formally moved or cross-moved for dismissal. While the Court will not therefore grant dismissal *sua sponte*, it notes that there is a clear meritorious defense and that even without Defendant’s opposition, Plaintiff has failed to establish a prima facie case as against Defendant Jefry. Even assuming that the police report is not inadmissible hearsay, that

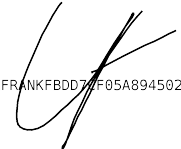
the driver of a vehicle claims that a certain person owned the vehicle in question does not establish ownership. Plaintiff has provided no evidence other than the report tending to show that Defendant Jefry has ever owned the vehicle in question. Accordingly, it is hereby

ADJUDGED that the motion is granted in part; and it is further

ORDERED that plaintiff Motor Vehicle Accident Indemnification Corporation is entitled to judgment in the amount of \$26,150.00, as against defendant Wilson Fernandez Collado only, and the Clerk of the Court shall enter judgment accordingly; and it is further

ADJUDGED that the motion is otherwise denied; and it is further

ORDERED that defendant Jefry Baez Collado's time to answer or otherwise respond is extended, and he is directed to serve an answer to or otherwise respond to the complaint within 20 days after service of a copy of this order with notice of entry.

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LYLE E. FRANK, J.S.C.

2/5/2026
DATE

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART <input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE