

721 Borrower LLC v New York Iconic Cruises LLC

2026 NY Slip Op 31219(U)

March 25, 2026

Supreme Court, New York County

Docket Number: Index No. 155626/2025

Judge: Emily Morales-Minerva

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 42M

-----X
721 BORROWER LLC,

Plaintiff,

- v -

NEW YORK ICONIC CRUISES LLC, AURORA TOURISM
SERVICES LLC, OLADAPO JEDGE, OPEYEMI JEDGE

Defendants.

INDEX NO. 155626/2025

MOTION DATE 11/17/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

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

were read on this motion to/for JUDGMENT - DEFAULT

APPEARANCES:

Charles E. Boulbol, Brooklyn, NY (Charles E. Boulbol, of
counsel), for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this action, plaintiff 721 BORROWER LLC (plaintiff)
moves for an order (1) granting it leave to amend the caption of
the complaint; and for an order (2) granting it leave to enter a
default judgment against defendants NEW YORK ICONIC DRUISES LLC,
AURORA TOURISM SERVICES LLC (defendant tenants), OLADAPO JEDEGE
and OPEYEMI JEDEGE (defendant guarantors).

Defendants do not appear or submit opposition to the
motion.

Leave to amend a pleading should be freely given absent a
showing of substantial prejudice or surprise, unless the

proposed amendment is palpably insufficient or patently devoid of merit (see CPLR § 3215 [b]; see also JP Morgan Chase Bank, N.A. v Low Cost Bearings N.Y., Inc., 107 AD3d 643, 644 [1st Dept 2013]). A request to amend the caption of a complaint should be granted where the defendant does not oppose the request and there is no apparent prejudice to the defendant (see Cupka v Remik Holdings LLC, 202 AD3d 473, 475 [1st Dept 2022]).

Here, the caption shall be amended, without opposition, to correct defendant guarantors' names from "Oladapo Jedge" to "Oladapo Jegede" and from "Opeyemi Jedge" to "Opeyemi Jegede" (see CPLR § 3215 [b]; see also NYSCEF Doc. No. 24, proposed amended caption).

Next, when a defendant fails "to appear, plead or proceed to trial of an action reached and called for trial, or when the court orders a dismissal for any other neglect to proceed, the plaintiff may seek a default judgment against [the defendant]" (CPLR § 3215 [a]). To establish entitlement to a default judgment, plaintiff must file (1) proof it served defendant with the summons and complaint, and (2) "proof of the facts constituting the claim, the default, and the amount due . . . by affidavit made by the party" (see CPLR § 3215 [f]; see also Woodson v Mendon Leasing Corp., 100 NY2d 62, 70 [2003]

[providing that "an applicant for a default judgment [must] file 'proof by affidavit made by the party of the facts constituting

the claim'"]; 231st Riverdale LLC v 7 Star Home Furniture Inc., 198 AD3d 524, 525 [1st Dept 2021]; Feffer v Malpeso, 210 AD2d 60 [1st Dept 1994]).

Here, plaintiff has established proper service on defendants and defendants' default, as CPLR § 3215 (f) requires (see New York State Court Electronic Filing System [NYSCEF] Doc. Nos. 09-12)). With respect to the facts constituting plaintiff's claims, plaintiff submits the affidavit of plaintiff's managing member Jack Cohen and supporting documentary evidence (see NYSCEF Doc. Nos. 17 and 18).

With that being said, plaintiff has demonstrated that it properly terminated defendant tenants' lease following service of a notice to cure rent-related defaults (see NYSCEF Doc. Nos. 05-07). Plaintiff is therefore entitled to the declaration that the lease at issue terminated on April 28, 2025, and that it is entitled to possession of the premises (see NYSCEF Doc. No. 07, notice of termination).

With respect to damages, plaintiff seeks from defendants (1) unpaid rent in the amount of \$61,128.29 accrued as of the lease-termination date of April 28, 2025; and (2) holdover use and occupancy at the rate of "\$29,589.60 per month from and after May 2025 until such time as defendants are ejected from the premises" (NYSCEF Doc. No. 15, notice of motion).

Plaintiff has established that it is entitled to \$61,128.29 in unpaid rent, as well as holdover use and occupancy at the rate of \$29,589.60 per month from May 2025 through the filing date of this motion -- October 2025 -- totaling \$177,537.60 (see NYSCEF Doc. No. 04, rider to lease, ¶ 66 [holdover damages]). Plaintiff has also demonstrated that it is entitled to collect this amount from defendant guarantors pursuant to their absolute and unconditional guarantee (see id., at ¶ 85).

However, plaintiff has not demonstrated its entitlement to holdover use and occupancy up through and including the date it recovers possession of the premises -- i.e., an obligation that had not yet accrued at the time of the filing of the motion. Plaintiff may not recover future rent or holdover use and occupancy absent an acceleration clause (see One NY Plaza Co. LLC v Vendorville, LLC, 78 Misc3d 1224 [A] [Sup Ct NY Cnty 2023], citing Utility Garage Corp. v National Biscuit co., 71 AD2d 578, 579 [1st Dept 1979] ["no suit can be brought for future rent in the absence of a clause permitting acceleration"]). The holdover provision does not contain this clause (NYSCEF Doc. No. 4).

Lastly, plaintiff seeks its reasonable attorneys' fees incurred in this action, as provided for in paragraph 69 of the lease (see NYSCEF Doc. No. 04, rider to lease, ¶ 69). Though

plaintiff has shown that it is entitled to such under the lease, the court shall direct a hearing to determine said amount.

Accordingly, it is hereby

ORDERED that plaintiff's motion (seq. no. 01) for leave to amend the caption is granted; it is further

ORDERED that plaintiff shall, within ten days from the date of this order, serve a copy of this order upon the County Clerk and the Clerk of the General Clerk's Office, who are directed to amend the caption to the following:

721 BORROWER LLC

Plaintiff,

-v-

NEW YORK ICONIC DRUISES LLC, AURORA TOURISM SERVICES LLC,
OLADAPO JEGEDE, and OPEYEMI JEGEDE

Defendants;

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); it is further

ORDERED that the branch of plaintiff's default judgment motion (seq. no. 01) seeking a judgment of possession and an order of ejectment is granted; it is further

ORDERED and ADJUDGED that plaintiff 721 BORROWER LLC is entitled to possession of the entire 4th floor of the building located at 721-723 7th Avenue, New York, New York 10019, and the Sheriff of the City of New York, County of New York, upon receipt of a certified copy of this Order and Judgment and payment of proper fees, is directed to place plaintiff in possession of the entire 4th floor of the building located at 721-723 7th Avenue, New York, New York 10019 upon the expiration of 14 days from receipt of the Order and Judgment; it is further

ORDERED and ADJUDGED that upon the expiration of 14 days from service of notice of entry of this Order and Judgment, plaintiff may exercise all acts of ownership and possession of the entire 4th floor of the building located at 721-723 7th Avenue, New York, New York 10019, including entry thereto, as against defendants NEW YORK ICONIC DRUISES LLC, AURORA TOURISM SERVICES LLC, OLADAPO JEGEDE, and OPEYEMI JEGEDE; it is further

ORDERED that the branch of plaintiff's default judgment motion (seq. no. 01) seeking \$61,128.29 in unpaid rent and \$177,537.60 in holdover use and occupancy, for a total of \$238,665.89, is granted; it is further

ORDERED that the Clerk of Court is directed to enter judgment in favor of plaintiff 721 BORROWER LLC and against defendants NEW YORK ICONIC DRUISES LLC, AURORA TOURISM SERVICES LLC, OLADAPO JEGEDE, and OPEYEMI JEGEDE, jointly and severally, in the amount of \$238,665.89, with interest at the statutory rate from April 28, 2025; it is further

ORDERED that a hearing on plaintiffs' claim for attorneys' fees shall be held on June 01, 2026, at 11:00 A.M., in Courtroom 574, located at 111 Centre Street, New York County Supreme Court; and it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

3/25/2026
DATE


EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>
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"/>
					<input type="checkbox"/>
					REFERENCE