

**Kyoko Hiramatsu v Bob 57 Dev., LLC**

2026 NY Slip Op 31326(U)

March 31, 2026

Supreme Court, New York County

Docket Number: Index No. 158872/2024

Judge: Ariel D. Chesler

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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. ARIEL D. CHESLER PART 62M

Justice

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INDEX NO. 158872/2024

KYOKO HIRAMATSU,

MOTION DATE 10/17/2025

Plaintiff,

MOTION SEQ. NO. 001

- v -

BOB 57 DEVELOPMENT LLC,POFI CONSTRUCTION,
CORP., NORTHSTAR CONTRACTING GROUP, INC.,TRI
BOROUGH SCAFFOLDING AND HOISTING,
INC.,CONSOLIDATED EDISON, INC.,CONSOLIDATED
EDISON COMPANY OF NEW YORK, INC.,THE CITY OF
NEW YORK, NEW YORK CITY DEPARTMENT OF
TRANSPORTATION

DECISION + ORDER ON
MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 33, 34, 35, 36, 37,
38, 39, 40, 41, 42, 43

were read on this motion to/for JUDGMENT - DEFAULT

Upon the foregoing documents, it is

In this proceeding, plaintiff moves for an Order pursuant to CPLR 3215 granting default
judgment against defendants Bob 57 Development LLC ("Bob 57") and Triborough Scaffolding
& Hoisting, Inc ("Triborough").

This action arises out of personal injuries allegedly sustained by plaintiff on June 26,
2023, when plaintiff walking on a sidewalk, located on the southern side of West 58th Street,
between 5th Avenue and 6th Avenue, adjacent to and/or abutting the premises at 50 West 58th
Street, New York, New York, where plaintiff was caused to trip and fall due to a
dangerous/defective condition. Plaintiff commenced this action by the filing of a Summons and
Verified Complaint on September 24, 2024 (see NYSCEF Doc. No. 1).

On November 18, 2024, the Summons and Verified Complaint were served upon defendant Bob 57 by delivery to the Secretary of State pursuant to Limited Liability Company Law (“LLC Law”) §304 (*see* NYSCEF Doc. No. 18). A copy of the Affidavit of Service was filed with the Court on December 2, 2024 (*id.*). The Summons and Verified Complaint were also served upon defendant Bob 57 on November 18, 2024 by personal delivery to 34 East 51<sup>st</sup> Street, 6<sup>th</sup> floor New York, New York, 10022, where an adult male who identified himself as “general counsel” accepted service (*see* NYSCEF Doc. No. 8). The same was filed with the Court on November 19, 2024 (*id.*). In addition, the Summons and Complaint were served upon defendant Bob 57 on December 16, 2024, by delivery to United Corporate Services, Inc.,- Registered Agent, 800 North Street, Suite 304, Dover, Delaware 19901, where an adult female identified herself as “managing agent” (*see* NYSCEF Doc. No. 22). A copy of the Affidavit of Service was filed with the Court on December 23, 2024 (*id.*).

The Summons and Verified Complaint were served upon defendant Triborough on November 18, 2024 through delivery to the Secretary of State pursuant to Business Corporation Law §306 (*see* NYSCEF Doc. No. 16). A copy of the Affidavit of Service was filed with the Court on December 2, 2024 (*id.*). The Summons and Verified Complaint were also served upon Triborough by personal service to 35-06 Farrington Street, 2<sup>nd</sup> Floor, Attention Josephn Chung, Flushing, New York, 11354, where an adult female accepted service after stating she was authorized to (*see* NYSCEF Doc. No. 10).

Pursuant to CPLR 3215(a), “when a defendant fails to appear, pleas 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 him.” “On any application for judgment by default, the applicant shall file proof of service of the summons and

complaint...and proof of the facts constituting the claim, the default, the amount due...by affidavit made by the party” (*see* CPLR 3215[f]). “Given that in default proceedings the defendant has failed to appear and the plaintiff does not have the benefit of discovery, the affidavit or verified complaint need only allege enough facts to enable a court to determine that a viable cause of action exists” (*Woodson v. Mendon Leasing Corp.*, 100 NY2d 62, 70-71 [2003]).

The Courts note that regarding defendant Bob 57, plaintiff’s moving papers and Complaint fail to establish whether Bob 57 is an authorized or unauthorized foreign limited liability company. The classification of defendant Bob 57 as an authorized or unauthorized foreign limited liability company is determinative, as the method of service of process differs depending on the type of foreign LLC it is. As such, the Court is not able to make a determination of whether plaintiff fulfilled its service obligations in regards to defendant Bob 57 (*Zambrana v. Lemus-Roque*, 2017 WL 3012682, at \*1 (N.Y. Sup. Ct. July 14, 2017) [“Consequently, without a showing of whether [defendant] is an authorized or unauthorized foreign limited liability company, the Court is unable to make determination as to which service of process provision of the Limited Liability Company Law is applicable to it and whether Plaintiff fulfilled its service of process obligations”]).


Moreover, plaintiff’s motion for a default judgment is denied as moot in light of defendant Triborough filing an Answer on December 5, 2025, which was not rejected by the plaintiff (*see* NYSCEF Doc. No. 44) (*Canuelas v. City of New York*, 2025 WL 850319, at \*1 [N.Y. Sup. Ct. Mar. 12, 2025] [“[P]laintiff’s motion is rendered moot by the City of New York’s filing of an answer on December 27, 2024. Courts have consistently held that when a defendant answers before a default judgment is entered, the motion should be denied as academic”]).

Accordingly, it is hereby

**ORDERED**, plaintiff's motion for a default judgment pursuant to CPLR 3215 granting default judgment against defendants Bob 57 Development LLC and Triborough Scaffolding & Hoisting, Inc., is denied.

This constitutes the Decision of the Court.

3/31/2026  
DATE

  
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ARIEL D. CHESLER, 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