

**WeWork Cos. LLC v Parkmerced Holdings
Subsidiary LLC**

2026 NY Slip Op 31412(U)

April 7, 2026

Supreme Court, New York County

Docket Number: Index No. 651708/2020

Judge: Andrea Masley

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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WEWORK COMPANIES LLC, AS SUCCESSOR IN
INTEREST TO WEWORK COMPANIES INC.,

INDEX NO. 651708/2020

Plaintiff,

MOTION DATE _____

- v -

MOTION SEQ. NO. 008

PARKMERCED HOLDINGS SUBSIDIARY LLC,
PARKMERCED INVESTORS, LLC, and JOHN DOES 1
THROUGH 10,

**DECISION + ORDER ON
MOTION**

Defendants.

-----X

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 008) 321, 322, 323, 324, 325, 329, 330, 331, 332, 333, 334, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356

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

In motion sequence 008, plaintiff WeWork Companies LLC, as successor in interest to WeWork Companies Inc. (WeWork) moves for an order

- “(1) directing the clerk of court to restore this case to the trial calendar;
- (2) pursuant to CPLR 3215 and 22 NYCRR 202.27, granting a default judgment against defendants Parkmerced Holdings Subsidiary LLC [] and Parkmerced Investors LLC [(collectively Parkmerced)] on the first prong of WeWork’s breach of contract claim (*i.e.*, WeWork’s contractual refund claim) against [Parkmerced] on the grounds that [Parkmerced] failed to appear [on September 9, 2025];
- (3) directing the clerk of court to enter a money judgment in favor of WeWork and against [Parkmerced] jointly and severally in the amount of \$20,000,000.00, plus prejudgment interest on that sum from November 1, 2018, as well as costs and disbursements of this action;
- (4) declaring WeWork to be the substantially prevailing party in this action and awarding WeWork attorneys’ fees and expenses, in accordance with the binding attorneys’ fees provision in the parties’ term sheet, and referring the calculation of attorneys’ fees and expenses to a Special Referee.” (NYSCEF Doc. No. [NYSCEF] 321, Notice of Motion at 1-2.)

WeWork's motion arises from defendants' failure to timely engage counsel after their attorney was relieved despite multiple warnings that corporations must appear by counsel.

“On any application for judgment by default, the applicant shall file proof of service of the summons and the complaint . . . , and proof of the facts constituting the claim, the default and the amount due.” (CPLR 3215 [f].) The term “default” “oftentimes refers to when the defendant is served with process and then fails to appear in the action or answer to complaint or petition. But ‘default’ equally applies to when a defendant fails to appear in court for a scheduled conference, hearing, or trial.” (Hon. Mark C. Dillon, Practice Commentaries, McKinney’s Cons Laws of NY, 2021, CPLR 3215 [a].) Indeed, 22 NYCRR 202.27(a) provides that “[i]f the plaintiff appears [at any conference] but the defendant does not, the judge may grant judgment by default or order an inquest.” (22 NYCRR 202.27 [a].) Most relevant here is that a default judgment is properly entered against a corporate defendant where the court “had previously directed the corporate defendant to appear by attorney, as required by CPLR 321(a) . . . or face default,” and the defendant “failed to do so.” (*Mail Boxes Etc. USA, Inc. v Higgins*, 281 AD2d 176, 176 [1st Dept 2001]; see also *Pisciotta v Lifestyle Designs, Inc.*, 62 AD3d 850, 853 [2d Dept 2009] [affirming default judgment; the failure of an unrepresented corporate defendant to appear at a conference “in and of itself, could have warranted the entry of a default judgment against [defendant] (see 22 NYCRR 202.27).”].)

On August 29, 2025, defendants' counsel at Kasowitz LLP (Kasowitz) was permitted to withdraw “due to nonpayment of legal fees.” (See NYSCEF 319, Decision and Order [mot. seq. no. 007] at 2.) Initially, in the Order to Show Cause (OSC), the court stated that “[b]usiness entities, e.g. corporations, must appear by counsel” and referred defendants to the New York City Bar Association for assistance in engaging new counsel. (NYSCEF 315, OSC at 3.) Defendants were served with the OSC on August 6, 2025, and thus defendants were on

notice of the necessity for the corporate defendants to engage new counsel. (See NYSCEF 317, Aff of Service [Kasowitz affirming service of its motion to withdraw].) Moreover, in the order permitting Kasowitz to withdraw, the court cautioned defendants that because “[c]orporate defendants can only appear by counsel . . . defendants fail[ure] to appear by counsel, [] may constitute a default.” (NYSCEF 319, Decision and Order [mot. seq. no. 007] at 2 [citing CPLR 321(a)].) Again, the court referred defendants to the New York City Bar Association’s Legal Referral Service. (See *id.* at 3 n 1.) The Court also stayed the action “until September 8, 2025 to allow time for defendants to engage new counsel” and ordered a status conference on September 9, 2025 “to confirm whether defendants retained replacement counsel.” (*Id.* at 3.) When no counsel appeared for defendants at the September 9, 2025 conference, the court declared that defendants had defaulted and permitted WeWork to file a motion for default judgment. (See NYSCEF 320, Sept. 9, 2025 Transcript, 2:8-15, 3:6-11.)

Defendants engaged counsel 68 days after defendants were served with Kasowitz’s motion to withdraw as counsel (NYSCEF 430, October 13, 2025 Email; NYSCEF 330, Rosania aff ¶ 3), a motion which also alerted defendants that counsel would be needed by September 9, 2025. (See NYSCEF 315, OSC; NYSCEF 317, Aff of Service.)

In opposition to this motion, defendants submitted an affidavit from Robert Rosania, defendants’ authorized signatory and manager. (NYSCEF 330, Rosania aff ¶ 1.) Defendants failed to file a memorandum of law in violation of the Uniform rules for the New York State Trial Courts, the rules established by the Chief Administrative Judge of the State of New York, and made no legal arguments. (22 NYCRR § 202.8 [c].) Rosania cites Wikipedia to support his statement that the property is in receivership. (NYSCEF 330, Rosania aff ¶ 5.) He further blames the receiver for not paying Kasowitz. (*Id.* ¶ 8.) Despite the fact that the receiver is not the receiver for defendants here, Rosania claims that he expected the receiver to engage and

pay a new attorney even though the receiver had never paid attorneys in this case; defendants paid Kasowitz until they stopped. (See *id.* ¶ 9). Rosania then blames the court because the court had mistakenly marked the case disposed on a grey sheet even though the court had informed the parties on March 5, 2025, that this was a mistake and the case would be restored. (See *id.* ¶ 11; NYSCEF 312, Transcript [mot. seq. no. 006] at 2:12-17.) Rosania also asserts that defendants have a good defense because WeWork was not ready willing and able. (NYSCEF 330, Rosania aff ¶ 17.) Finally, Rosania states that resolution on the merits is preferred. (*Id.* ¶ 23.) Rosania's affidavit is inadequate to establish good cause for the default.

WeWork argues that defendants' failure to engage counsel in this case was strategic to further delay this 2020 case.¹ Plaintiff relies on defendants' history of such tactics. (See NYSCEF 354, Plaintiff's Reply MOL at 6-8.) In this case, however, defendants' tactic did not delay the case as the parties were waiting for a decision from this court. (NYSCEF 209, July 12, 2024 Decision and Order [mot. seq. no. 003]; NYSCEF 215, September 16, 2024 Notice of Motion [mot. seq. no. 006] [seeking to reargue the court's July 12, 2024 decision]; NYSCEF 312, March 5, 2025 Transcript [oral argument on mot. seq. no. 006]; NYSCEF 357, March 16, 2026 Decision and Order [mot. seq. no. 006].)

While defendants fail to offer a good excuse for their failure to engage the counsel timely and appear at the September 9, 2025 conference, the court has scheduled a trial on the material issue of fact of whether WeWork was ready willing and able. (NYSCEF 357, Decision and Order [mot. seq. no. 006] at 6.) This decision should not be interpreted as condoning defendants' failure to comply with this court's orders. (NYSCEF 315, OSC; NYSCEF 319, Decision and Order [mot. seq. no. 007]). To be sure, there is "strong public policy favoring the resolution of cases on the merits." (*Hammond v Equinox Holdings LLC*, 197 AD3d 1039, 1040

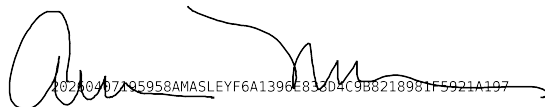
¹ Unfortunately, this case, filed on March 16, 2020, was significantly delayed by COVID.

[1st Dept 2021] [citations omitted].) However, there is an equally important public policy that parties follow court orders, rules, and procedures.

Accordingly, it is

ORDERED that since the action was restored to the calendar by the court's March 16, 2026 Decision and Order, this aspect of the motion is moot (NYSCEF 357, Decision and Order [mot. seq. no. 006] at 6); and it is further

ORDERED that motion 008 is denied.



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4/7/2026
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: