

Highland Hill Capital LLC v Lunarev Inc.
2026 NY Slip Op 31532(U)
March 26, 2026
Supreme Court, Kings County
Docket Number: Index No. 521675/2025
Judge: Cenceria P. Edwards
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At an IAS Term, Comm 2 off the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 26th day of March 2026.

PRESENT:

HON. CENCERIA P. EDWARDS, CPA,

Justice.

-----X
HIGHLAND HILL CAPITAL LLC,

Plaintiff(s),

-against-

LUNAREV INC. / BOCA DESIGN CO. and JUAN ALEJANDRO MARTINEZ,

Defendant(s).
-----X

ORDER

Calendar Date: 10/1/2025

Calendar #(s): 3

Index #: 521675/2025

Mot. Seq. #(s): 1

The following e-filed papers read herein:

Notice of Motion/Order to Show Cause/Petition/Cross-Motion and Affidavits (Affirmations) and Exhibits _____

Opposing Affidavits (Affirmations) and Exhibits _____

Reply Affidavits (Affirmations) and Exhibits _____

NYSCEF Doc. Nos.:

2, 8, 9, 13–15

19

NATURE OF THE ACTION

Plaintiff Highland Hill Capital LLC (“Plaintiff”) commenced this action on June 30, 2025, by filing a Summons and Complaint against Defendants Lunarev Inc./Boca Design Co. and Juan Alejandro Martinez (“Defendants”) (NYSCEF Doc. # 1). Plaintiff asserts one cause of action for breach of contract, alleging that Defendants breached a settlement agreement (*id.* ¶ 3).

NATURE OF THE MOTION

Plaintiff moves pursuant to CPLR 3212 to direct summary judgment in favor of Plaintiff against Defendant Martinez in the amount of \$195,321.75 plus interest of 9% per annum from the date of default and costs and disbursements (NYSCEF Doc. # 8 ¶ 1). Plaintiff also moves pursuant to CPLR 3211(b) to dismiss Martinez’s affirmative defenses (*id.*). Finally, Plaintiff moves pursuant to CPLR 3215 to direct default judgment in favor of Plaintiff against Defendant Lunarev Inc./Boca Design Co. in the amount of \$195,321.75 plus interest of 9% per annum from the date of default and costs and disbursements (NYSCEF Doc. # 8 ¶ 2).

BACKGROUND

Plaintiff alleges on or about May 13, 2025, Plaintiff and Defendants entered into a Settlement and Release Agreement (“Agreement”) because of Defendants’ default of two previous merchant cash advance agreements (NYSCEF Doc. # 1 ¶ 3). Defendant Martinez was the guarantor of Lunarev’s performance (NYSCEF Doc. # 2). Under the Agreement, Defendants admitted to defaulting and agreed to pay Plaintiff \$158,461.40 pursuant to a payment schedule in lieu of Plaintiff commencing an action against Defendants (NYSCEF Doc. # 1 ¶ 3). Defendants also allegedly agreed to pay Plaintiff the full pre-settlement balance of \$206,121.75 in the event Defendants breached the Agreement (*id.* ¶ 7). Plaintiff alleges Defendants paid \$10,800 before defaulting on or about June 17, 2025 (*id.* ¶¶ 5–6). Plaintiff therefore alleges Defendants are liable for the full pre-settlement balance (\$206,121.75) less the amount paid before default (\$10,800), totaling \$195,321.75, plus prejudgment interest of 9% per annum from the date of default and costs and disbursements (*id.* ¶¶ 8–9).

DISCUSSION

MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT MARTINEZ

Plaintiff first moves pursuant to CPLR 3212 for summary judgment against Defendant Martinez. Summary judgment is a drastic remedy and should not be granted where there is any doubt as to the existence of a triable issue of fact (*Goldin Real Estate, LLC v Shukla*, 227 AD3d 674, 676 [2d Dept. 2024]). A motion for summary judgment “shall be granted if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of any party” (CPLR 3212 [b]; *Martinez v 281 Broadway Holdings, LLC*, 183 AD3d 716, 719 [2d Dept 2020]). All facts must be viewed in the light most favorable to the non-moving party and “[t]he movant must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact” (*Carlson v Colangelo*, 44 NY3d 116, 124 [2025], quoting *Bazdaric v Almah Partners LLC*, 41 NY3d 310, 316 [2024]). Once this is shown, “the burden shifts to the opposing party to produce evidentiary proof in admissible form” establishing an issue of material fact (*id.*).

The elements of a breach of contract claim are “the existence of a contract, the plaintiff’s performance pursuant to the contract, the defendant’s breach of his or her contractual obligations, and damages resulting from the breach” (*Pinkesz v Massachusetts Mutual Life Ins. Co.*, 234 AD3d 886, 888 [2d Dept 2025]).

Plaintiff has proven the existence of a contract by submitting the Agreement showing that Defendants must pay Plaintiff \$158,461.40 in daily amounts, or in the event of a default, the full pre-settlement balance (NYSCEF Doc. # 2 §§ II.A; II.C). Plaintiff also demonstrates its performance under the Agreement because it states that Plaintiff agrees to release Defendants from all claims associated with the previous defaulted agreements (*id.* § II.D). Plaintiff submitted a wire

transfer receipt, demonstrating Defendants' default, Plaintiff's receipt of \$10,800, and that Defendants stopped making payments on June 17, 2025 (NYSCEF Doc. # 13). This also proves a violation of the Agreement, entitling Plaintiff to the full pre-settlement balance less the amount already received (*id.*; NYSCEF Doc. # 2 § II.C).

Defendants have not submitted any evidence demonstrating a material issue of fact. Thus, Plaintiff's summary judgment motion is granted against Defendant Martinez in the amount of \$195,321.75 plus interest of 9% per annum from the date of default, June 17, 2025, and costs and disbursements.

MOTION TO DISMISS DEFENDANT MARTINEZ'S AFFIRMATIVE DEENSES

Plaintiff also moves pursuant to CPLR 3211(b) to dismiss Defendant Martinez's affirmative defenses as meritless (NYSCEF Doc. # 8). "[W]here affirmative defenses merely plead conclusions of law without any supporting facts, the affirmative defenses should be dismissed pursuant to CPLR 3211(b)" (*Ramirez v Issa*, 245 AD3d 848, 849 [2d Dept 2026], quoting *Diaz v 297 Schaefer St. Realty Corp.*, 195 AD3d 794, 796 [2d Dept 2021]). None of the fourteen affirmative defenses Martinez pleads are supported by any facts (NYSCEF Doc. # 19). Accordingly, Plaintiff's motion to dismiss the affirmative defenses is granted.

MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANT LUNAREV INC. / BOCA DESIGN CO.

Plaintiff next moves pursuant to CPLR 3215 for default judgment against Defendant Lunarev Inc./Boca Design Co. To successfully move for default judgment under CPLR 3215, a plaintiff must submit "proof of service of the summons and complaint, 'proof of the facts constituting the claim,' and proof of the defendant's default in answering or appearing" (*Hersko v Hersko*, 224 AD3d 810, 812 [2d Dept 2024]).

Lunarev was properly served the summons and complaint on June 30, 2025, by First Class Mail (NYSCEF Doc. # 4; *see also* CPLR 321-a [a]). Accordingly, Plaintiff has proved service of the summons and complaint.

Next, Plaintiff must prove the facts constituting its claims (CPLR 3215 [f]). If the plaintiff has served a verified complaint, it "may be used as the affidavit of facts constituting the claim and the amount due" (CPLR 3215 [f]). As explained above, Plaintiff asserts one cause of action for breach of contract (NYSCEF Doc. # 1, at 3). Plaintiff has alleged in the Verified Complaint that Plaintiff and Defendants entered into a Settlement and Release Agreement, Plaintiff performed by not bringing suit against Defendants for prior contract breaches, Defendants did not fulfill its contractual obligations by failing to remit the daily payment on June 17, 2025, and Plaintiff suffered damages of \$195,321.75 plus interest of 9% per annum from the date of default, June 17, 2025, and costs and disbursements (NYSCEF Doc. # 1 ¶¶ 3–14). Accordingly, Plaintiff has provided sufficient proof of the facts constituting the claim.

Finally, Plaintiff must prove Defendant Lunarev's default in answering or appearing (CPLR 3215 [f]). As explained above, service of process was completed on June 30, 2025, by First Class Mail. Lunarev, as a corporation, had 30 days to appear by attorney (CPLR 320 [a], 321 [a]). Defendant Martinez, who is not an attorney (*see* NYSCEF Doc. # 14), submitted an answer on behalf of Lunarev (NYSCEF Doc. # 5). Lunarev's answer is therefore insufficient. Accordingly, Plaintiff has demonstrated that Lunarev has defaulted. Thus, Plaintiff's motion for default judgment is granted as to Defendant Lunarev.

Accordingly, it is hereby:

ORDERED that the Plaintiff's motion for summary judgment against Defendant Juan Alejandro Martinez is **GRANTED** in its entirety; and it is further

ORDERED that Plaintiff's motion to dismiss Defendants' affirmative defenses is **GRANTED**; and it is further

ORDERED that Plaintiff's motion for default judgment against Defendant Lunarev Inc./Boca Design Co. is **GRANTED**.

The Foregoing Constitutes the Decision and Order of this Court.

E N T E R,

Dated: March 26, 2026



Hon. Cenceria P. Edwards, JSC, CPA