

**City of New York v Udunni**

2026 NY Slip Op 31872(U)

April 29, 2026

Supreme Court, New York County

Docket Number: Index No. 453204/2022

Judge: John J. Kelley

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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. JOHN J. KELLEY PART 56M**

*Justice*

-----X

THE CITY OF NEW YORK and THE NEW YORK CITY  
TAXI & LIMOUSINE COMMISSION,

Plaintiffs,

- v -

CHIKE UDUNNI,

Defendant.

-----X

INDEX NO. 453204/2022

MOTION DATE 03/30/2023

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21

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

In this action pursuant to Administrative Code of City of New York (Admin. Code) §19-506(h)(2) for the civil forfeiture of a vehicle that had been operated for hire without appropriate licensure by the defendant, Chike Udunni, the plaintiffs move pursuant to CPLR 3215 for leave to enter a default judgment against the defendant.<sup>1</sup> The defendant does not oppose the motion. The motion is granted, and the plaintiffs are awarded judgment declaring that they are permitting to retain the subject vehicle and dispose of it in accordance with law.

Where a plaintiff moves for leave to enter a default judgment, he or she must submit proof of service of the summons and complaint upon the defaulting defendant, proof of the defendant's default, and proof of the facts constituting the claim (see CPLR 3215[f]; *Woodson v Mendon Leasing Corp.*, 100 NY2d 62, 70-71 [2003]; *Rosenstein v Permanent Mission of*

<sup>1</sup> The court notes that, when the plaintiffs made the instant motion on February 28, 2023, this court was, as it remains, a dedicated medical and dental malpractice part. This court nonetheless had agreed, over the preceding months, to accept the assignment of a significant number of special proceedings to address a backlog of such matters that had been pending in the Supreme Court, New York County. By that date, however, new proceedings were not being assigned to this part. For some reason, the instant matter, which is an action and not a special proceeding, was assigned to this part, and that fact caused the unfortunate delay in the disposition of the instant motion.

*Republic of Sierra Leone to United Nations*, 217 AD3d 553, 554 [1st Dept 2023]; *Bigio v Gooding*, 213 AD3d 480, 481 [1st Dept 2023]; *Gray v Doyle*, 170 AD3d 969, 971 [2d Dept 2019]; *Allstate Ins. Co. v Austin*, 48 AD3d 720, 720 [2d Dept 2008]; see also *Manhattan Telecom. Corp. v H & A Locksmith, Inc.*, 21 NY3d 200 [2013]).

The plaintiffs commenced this action on December 19, 2022, which required them to serve process upon the defendant within 120 days thereof (see CPLR 306-b). According to the relevant affidavit of service that the plaintiffs have filed, the defendant was served with a copy of the summons and complaint by personal delivery (see CPLR 308[1]) on December 28, 2022 at the offices of the New York City Sheriff, located at 345 Adams Street, Brooklyn, New York. A process server's affidavit of service is prima facie evidence of proper service (see *Johnson v Deas*, 32 AD3d 253, 254 [1st Dept 2006]). Hence, the plaintiffs established that they properly and timely served the defendant with process. Inasmuch as the defendant was served via personal delivery of the summons and complaint, he had 20 days after the date of service, or until January 17, 2023, within which to answer or move with respect to the complaint, or otherwise appear in the action (see CPLR 3012[a]). The affirmation of the plaintiffs' attorney established that the defendant did not answer or move with respect to the complaint, or otherwise appear in the action by that date. Consequently, the defendant was in default as of January 18, 2023. The plaintiffs timely made the instant motion on February 28, 2023, inasmuch as they took steps for the entry of default judgment within one year of the defendant's default (see CPLR 3215[c]).

With respect to the proof of the facts constituting the claim,

"CPLR 3215 does not contemplate that default judgments are to be rubber-stamped once jurisdiction and a failure to appear have been shown. Some proof of liability is also required to satisfy the court as to the prima facie validity of the uncontested cause of action (see, 4 Weinstein-Korn-Miller, NY Civ Prac paras. 3215.22-3215.27). The standard of proof is not stringent, amounting only to some firsthand confirmation of the facts"

(*Joosten v Gale*, 129 AD2d 531, 535 [1st Dept 1987]; see *Martinez v Reiner*, 104 AD3d 477, 478 [1st Dept 2013]; *Beltre v Babu*, 32 AD3d 722, 723 [1st Dept 2006]). Stated another way, while the “quantum of proof necessary to support an application for a default judgment is not exacting . . . some firsthand confirmation of the facts forming the basis of the claim must be proffered” (*Guzetti v City of New York*, 32 AD3d 234, 236 [1st Dept 2006]). In other words, the proof submitted must establish a prima facie case (see *id.*; *Silberstein v Presbyterian Hosp.*, 95 AD2d 773 [2d Dept 1983]). “Where a valid cause of action is not stated, the party moving for judgment is not entitled to the requested relief, even on default” (*Green v Dolphy Constr. Co.*, 187 AD2d 635, 636 [2d Dept 1992]; see *Walley v Leatherstocking Healthcare, LLC*, 79 AD3d 1236, 1238 [3d Dept 2010]). In moving for leave to enter a default judgment, the plaintiff must “state a viable cause of action” (*Fappiano v City of New York*, 5 AD3d 627, 628 [2d Dept 2004]). In evaluating whether the plaintiff has fulfilled this obligation, the defendant, as the defaulting party, is “deemed to have admitted all factual allegations contained in the complaint and all reasonable inferences that flow from them” (*Woodson v Mendon Leasing Corp.*, 100 NY2d 62, 71 [2003]). The court, however, must still reach the legal conclusion that those factual allegations establish a prima facie case (see *Matter of Dyno v Rose*, 260 AD2d 694, 698 [3d Dept 1999]).

Proof that the plaintiff has submitted “enough facts to enable [the] court to determine that a viable” cause of action exists (*Woodson v Mendon Leasing Corp.*, 100 NY2d at 71; see *Gray v Doyle*, 170 AD3d at 971) may be established by an affidavit of a party or someone with knowledge, authenticated documentary proof, or by complaint verified by the plaintiff that sufficiently details the facts and the basis for the defendant’s liability (see CPLR 105[u]; *Woodson v Mendon Leasing Corp.*, 100 NY2d at 71; *Gray v Doyle*, 170 AD3d at 971; *Voelker v Bodum USA, Inc.*, 149 AD3d 587, 587 [1st Dept 2017]; *Al Fayed v Barak*, 39 AD3d 371, 371 [1st Dept 2007]; see also *Michael v Atlas Restoration Corp.*, 159 AD3d 980, 982 [2d Dept 2018]; *Zino v Joab Taxi, Inc.*, 20 AD3d 521, 522 [2d Dept 2005]; see generally *Mitrani Plasterers Co.*,

*Inc. v SCG Contr. Corp.*, 97 AD3d 552, 553 [2d Dept 2012]). Although the attorney who submitted an affirmation in support of the instant motion did not have personal knowledge of the facts, she submitted sufficient, authenticated documentary proof of the facts to establish the plaintiffs' entitlement to the entry of a default judgment.

Admin Code § 19-506(b)(1) provides, in relevant part, that,

“any person who . . . shall knowingly operate or offer to operate for hire any vehicle as a taxicab, coach, wheelchair accessible van, commuter van, HAIL vehicle or for-hire vehicle in the city, without first having obtained or knowing that another has obtained a license for such vehicle pursuant to the provisions of section 19-504 of this chapter, shall be guilty of a violation.”

Admin. Code §§ 19-506(h)(1) and (2) provide that

“Any officer or employee of the commission designated by the chairperson of the commission and any police officer *may seize any vehicle which he or she has probable cause to believe is operated or offered to be operated without a vehicle license in violation of paragraph one of subdivision b of this section* or without an appropriate vehicle license for such operation in violation of paragraph two of subdivision b or of subdivision c or subdivision k of this section. Therefore, . . . *the commission or an administrative tribunal of the commission at a proceeding commenced in accordance with subdivision e of this section*, . . . shall determine whether a vehicle seized pursuant to this subdivision was operated or offered to be operated in violation of any such subdivision. The commission shall have the power to promulgate regulations concerning the seizure and release of vehicles and may provide in such regulations for reasonable fees for the removal and storage of such vehicles. Unless the charge of violating subdivision b, c or k of this section is dismissed, no vehicle seized pursuant to this subdivision shall be released until all fees for removal and storage and the applicable fine or civil penalty have been paid or a bond has been posted in a form and amount satisfactory to the commission, except as is otherwise provided for vehicles subject to forfeiture pursuant to paragraph two of this subdivision.

“In addition to any other penalties provided in this section, if the owner is convicted in the criminal court of, *or found liable in accordance with subdivision e of this section for, a violation of paragraph [ ] one . . . of subdivision b . . . of this section two or more times, and all of such violations were committed on or after the effective date of this section and within a thirty-six month period, the interest of such owner in any vehicle used in the commission of any such second or subsequent violation shall be subject to forfeiture upon notice and judicial determination.* Notice of the institution of the forfeiture proceeding shall be in accordance with the provisions of the civil practice law and rules. The penalties provided for in this paragraph shall also apply to any owner who has been convicted of or found liable for one violation of paragraphs one or two of subdivision b or of subdivision c or subdivision k of this section at the time the local law that added this paragraph was enacted and who commits another violation within thirty-six months of the first violation”

(emphasis added).

The plaintiffs have submitted documentary proof that, on December 19, 2019, Officer Isaac Chumacero of the New York City Taxi and Limousine Commission (TLC) issued the defendant Summons No. 71071343A, which alleged that, on that date, the defendant violated Admin. Code § 19-506(b)(1) by operating a vehicle for hire, bearing Vehicle Identification Number (VIN) 1LNHM84W37Y614181 (hereinafter the initial vehicle), without having obtained a TLC vehicle license. The documentary proof further established that, on February 19, 2020, the defendant's representative pleaded guilty to that summons on behalf of the defendant, and entered into a stipulation that explicitly acknowledged that the plea of guilty to that charge would be deemed to be an Admin. Code § 19-506(b)(1) violation for the purposes of the civil forfeiture provisions of the Admin. Code.

The plaintiffs' documentary evidence further established that, on September 16, 2022, TLC Officer Edward Hilton issued the defendant Summons No. 73050718A, alleging that, on that date, the defendant again violated Admin. Code § 19-506(b)(1) by operating a vehicle for hire, specifically, a 2008 Ford Crown Victoria bearing VIN 2FAFP71V28X156178 (hereinafter the subject vehicle) without having obtained a TLC vehicle license. The plaintiffs' submissions further established that, pursuant to Admin. Code § 19-506(h), TLC seized the subject vehicle, and notified the defendant, pursuant to a Notice of Vehicle Seizure, that TLC would be conducting a hearing concerning the retention of the subject vehicle, in anticipation of the commencement of a civil forfeiture proceeding. That notice further informed the defendant that, if he failed to appear at the hearing, TLC would thereupon make a determination as to whether it would continue to retain the vehicle. The plaintiffs' documentary submissions further proved that, on October 6, 2022, at a hearing scheduled before the New York City Office of Administrative Trials and Hearings (OATH) in connection with Summons No. 73050718A, the defendant did, in fact appear, but that OATH Administrative Law Judge (ALJ) Elizabeth Barrett found him guilty, by a preponderance of the evidence, of violating Admin. Code § 19-506(b)(1).

ALJ Barrett, however, ordered that the subject vehicle be released to the defendant pending the outcome of a civil forfeiture proceeding.

The documentary evidence additionally established that, on October 26, 2022, TLC Officer Tomas Romero issued the defendant Summons No. 73880605A, alleging that, on that date, the defendant once again violated Admin. Code § 19-506(b)(1) by operating the subject vehicle for hire without having obtained a TLC vehicle license, upon which TLC seized the subject vehicle, and again notified the defendant, pursuant to a Notice of Vehicle Seizure, that a hearing would take place regarding the retention of the subject vehicle in anticipation of the commencement of a civil forfeiture proceeding, and that TLC would make a determination regarding retention of the subject vehicle if the defendant failed to appear. At the scheduled November 15, 2022 OATH hearing in connection with Summons No. 73880605A, the defendant failed to appear, and was found guilty, upon default, by OATH ALJ Anthony Reitano, of again violating Admin. Code § 19-506(b)(1). ALJ Reitano, however, ordered that the subject vehicle be retained by the TLC, pending the outcome of any civil forfeiture proceeding.

The plaintiffs have proven, with their documentary evidence, that the subject vehicle should be forfeited to the TLC, since the defendant had been found guilty on three separate occasions of operating a vehicle for hire without having been issued a valid license by the TLC, one time in connection with the initial vehicle, and two times in connection with the subject vehicle. In connection with the latter two violations, the plaintiffs have established that the defendant had been found in violation of 19-506(b)(1) two or more times, that all of such violations were committed on or after the effective date of Admin. Code § 19-506, and were committed within a 36-month period, thus establishing their right to the civil forfeiture of the subject vehicle.

Accordingly, it is,

ORDERED that the plaintiffs' motion for leave to enter a default judgment against the defendant is granted, without opposition; and it is,

ADJUDGED that it is DECLARED that the defendant, Chike Udunni, is not entitled to lawfully own and/or possess the subject vehicle, being a 2008 Ford Crown Victoria bearing Vehicle Identification Number 2FAFP71V28X156178; and it is further,

ADJUDGED that it is DECLARED that the plaintiffs' custody and retention of the subject vehicle, being a 2008 Ford Crown Victoria bearing Vehicle Identification Number 2FAFP71V28X156178, is both lawful and proper; and it is further,

ORDERED, ADJUDGED, and DECLARED that the defendant Chike Udunni's right, title, and interest in the subject vehicle, being a 2008 Ford Crown Victoria bearing Vehicle Identification Number 2FAFP71V28X156178, is hereby forfeited pursuant Administrative Code of the City of New York § 19-506(h), and that such right, title, and interest be, and hereby is, transferred to the plaintiffs, so that the subject vehicle may be disposed of according to law, including any statute or applicable provision of the Administrative Code of the City of New York.

This constitutes the Decision, Order, and Judgment of the court.

4/29/2026

DATE



JOHN J. KELLEY, 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