

Sahu v Nomellini

2021 NY Slip Op 32522(U)

November 30, 2021

Supreme Court, New York County

Docket Number: Index No. 653218/2020

Judge: Frank P. Nervo

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
NEW YORK COUNTY**

PRESENT: HON. FRANK NERVO PART 04

Justice

-----X

ANKIT SAHU, HEMANGINI PARIKH

Plaintiff,

- v -

ALESSANDRO NOMELLINI, LEGACY ORGANIZATION,
INC.,

Defendant.

-----X

INDEX NO. 653218/2020

MOTION DATE 12/21/2020

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23

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

This matter was recently transferred to Part IV. Plaintiff moves for default judgment against defendants to enforce a settlement agreement. The motion is unopposed.

CPLR § 3215(a) provides that a plaintiff may obtain a default judgment when a defendant has failed to appear or plead. The plaintiff must provide proof of service of the summons and complaint, proof of the underlying facts constituting the claim, and proof of default (CPLR § 3215(f); *see also SRMOF II 2012-I Trust v. Tella*, 139 AD3d 599 [1st Dept 2016]; *Green Tree Servicing, LLC v. Cary*, 106 AD3d 691, 692 [2d Dept 2013]). Where a default judgment is sought

against a corporation, the plaintiff must also demonstrate service on the corporate-defendant via mail at its last known address (CPLR § 3215[g][4]).

Here, the parties executed a settlement agreement in August of 2019, settling a dispute related to various loan agreements for \$203,360.00 (NYSCEF Doc. No. 2). That agreement was subsequently amended and later twice modified (NYSCEF Doc. Nos. 3, 4, and 5). As relevant here, the settlement agreement provides that in the event of default by defendants, the entire \$244,800 becomes due to plaintiffs (NYSCEF Doc. No. 2 at ¶ 3).

Plaintiffs have established the facts underlying their claim (*supra*) and have provided proof of the requisite service of this matter and application (NYSCEF Doc Nos. 6, 7, and 11-14). Accordingly, it is

ORDERED that the motion is granted and plaintiffs shall have default judgment as against defendants Alessandro Nomellini and Legacy Organization Inc., d/b/a Legacy Business School in the amount of \$244,800.00 with interest at the statutory rate as taxed by the Clerk of the Court from January 10, 2020; and it is further

ORDERED that the portion of plaintiff's motion seeking attorney's fees in bringing this action is severed and shall proceed to inquest before this Court on March 16, 2022 at 11:30am via Microsoft Teams; and it is further

ORDERED that plaintiff shall provide a courtesy copy of all exhibits intended to be introduced at the inquest, including a detailed recitation of the hours expended and fees earned in connection with the matter, to SFC-Part4-Clerk@nycourts.gov by March 11, 2022; and it is further

ORDERED that should the parties reach agreement regarding plaintiff's attorney's fees and costs, they shall file a stipulation of same via NYSCEF on or before March 11, 2022.; and it is further

ORDERED that the above inquest will not be adjourned after March 11, 2022, absent further order of the Court; and it is further

[continued on following page]

ORDERED that any requested relief not expressly addressed herein has nevertheless been considered and is hereby denied.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

11/30/2021
DATE


FRANK NERVO, J.S.C.

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED
<input checked="" type="checkbox"/>	GRANTED		

<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	GRANTED IN PART		

APPLICATION:

<input type="checkbox"/>	SETTLE ORDER
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN

<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
<input type="checkbox"/>	FIDUCIARY APPOINTMENT		