

Pentagon Fed. Credit Union v AMC Taxi Inc.
2022 NY Slip Op 33219(U)
September 22, 2022
Supreme Court, New York County
Docket Number: Index No. 652448/2021
Judge: Nancy M. Bannon
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 42

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PENTAGON FEDERAL CREDIT UNION, AS
SUCCESSOR BY MERGER TO PROGRESSIVE CREDIT
UNION,

Plaintiff,

- v -

AMC TAXI INC, DENALI HACKING LLC, NATINAT
TRANSIT INC., HEART TRANSIT INC., JENNIFER
HACKING LLC, KING VICTOR TAXI CORP., MISIDA
TRANS CORP., NEROS HACKING LLC, NITI HACKING
LLC, RA HACKING LLC, RV HACKING LLC, REGIS CAB
CORP., CHUOXER LLC, and VICTOR FALLEK,

Defendants.

-----X

HON. NANCY M. BANNON:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 167, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183

were read on this motion to/for

JUDGMENT - SUMMARY

I. INTRODUCTION

The plaintiff Pentagon Federal Credit Union, as Successor by Merger to Progressive Credit Union, commenced this action against the defendants to recover damages for breach of certain promissory notes and guaranty agreements and replevin of the taxi medallions pledged as collateral for the notes. In their answer filed on June 2, 2021, the defendants interposed twelve affirmative defenses to the allegations in the complaint and four counterclaims. By decision and order dated February 8, 2022, the court granted the plaintiff's motion to dismiss the defendants' counterclaims in their entirety. The plaintiff now moves pursuant to CPLR 3212 for an award of

summary judgment on the complaint and for other related relief. The defendants oppose the motion. The motion is granted.

II. DISCUSSION

It is well settled that the proponent of a motion for summary judgment must make a *prima facie* showing of entitlement to judgment as a matter of law, tendering sufficient evidence to eliminate any triable issues of fact. See Winegrad v New York Univ. Med. Ctr., 64 NY2d 851 (1985). In opposition, the nonmoving party must demonstrate by admissible evidence the existence of a triable issue of fact. See Alvarez v Prospect Hospital, 68 NY2d 320 (1986); Zuckerman v City of New York, 49 NY2d 557 (1980).

In support of its motion, the plaintiff submits, *inter alia*, the pleadings, the affidavit of the plaintiff's Director of Loss Mitigation, Member Business Loans, Cathyann Frank, promissory notes, guaranty agreements, and security agreements between the parties, UCC-1 financing statements, loan modification and extension agreements between the parties, and demand letters sent to the defendants. The plaintiff's submissions establish that, beginning in 2011, the plaintiff made a series of thirteen loans (the loans) to defendant Victor Fallek (Fallek) in the aggregate sum of \$12,200,000.00, to finance or refinance the purchase of certain New York City Taxi Medallions Nos. 7K56, 7K57, 8N71, 8N72, 6J19, 6J20, 6J21, 1H94, 1H95, 8M94, 8M95, 9P37, 9P38, 7L38, 7L39, 7L40, 8N75, 8N76, 8N73, 8N74, 1H96, 1J38, 1J36, 1J37, 8K79, 8K80, 8K81, 8K82, 1H24, and 1H48 (the medallions). In connection with the loans, Fallek executed promissory notes (the notes) in favor of the plaintiff. The notes provided that interest on the loans would accrue at an annual rate of 4.25%. Fallek's obligations under the thirteen notes he signed were guaranteed by the owners of the medallions, defendants AMC Taxi, Inc. (AMC),

Denali Hacking, LLC (Denali), Natinat Transit, Inc. (Natinat), Heart Transit, Inc. (Heart), Jennifer Hacking, LLC (Jennifer), King Victor Taxi Corp. (King), Misida Trans Corp., a/k/a Misida Transit Corp. (Misida), Neros Hacking, LLC (Neros), Niti Hacking, LLC (Niti), RA Hacking, LLC (RA), RV Hacking, LLC (RV), Regis Cab Corp. (Regis), and Chuoxer, LLC (Chuoxer), and secured by interests in the medallions. The plaintiff duly perfected its security interest in the medallions by filing UCC-1 financing statements with the Secretary of State.

The notes were subsequently modified and extended pursuant to applications for extension/modification dated December 20, 2011, and May 22, 2013; by letter agreements dated June 1, 2017, August 1, 2017, September 1, 2017, and November 1, 2017; and by loan modification and extension agreements dated February 1, 2018, and March 21, 2018. Pursuant to the 2011 applications for extension/modification, the interest rates under the notes were reduced to 4% per annum. Pursuant to the 2013 applications for extension/modification, the interest rates under the notes were further reduced to 3% per annum.

Pursuant to the 2018 loan modification and extension agreements, the interest rates under the notes guaranteed by defendants Denali and Natinat were reduced to 1% per annum. The interest rate under the notes guaranteed by defendants Neros and Niti was reduced to 1% per annum, subject to an increase to 1.5% per annum on the first anniversary of the agreement's effective date. The amounts due under the notes guaranteed by Jennifer, RA, and RV were split, with respect to each of the notes, individually, into "Note A," in the sum of \$639,213.75, and "Note B," in the sum of \$415,786.25. The amount due under the note guaranteed by Regis was split into Note A, in the sum of \$1,278,427.50, and Note B, in the sum of \$681,572.50. The amount due under the note guaranteed by Chuoxer was split into Note A, in the sum of \$780,887.75, and Note B, in the sum of \$274,112.25. The interest rate on Note A under each of

the foregoing notes guaranteed by Jennifer, RA, RV, Regis, and Chuoxer remained 3% per annum, while the interest rate on Note B was reduced to 1% per annum. The interest rates under the notes guaranteed by AMC, Heart, King, and Misida remained 3% per annum. Further, the 2018 loan modification and extension agreements extended the maturity date on the notes to February 1, 2021.

The foregoing loan modifications and extensions, together with the notes, guaranties, and security agreements comprise the loan documents (the loan documents).

The defendants defaulted on their obligations under the terms of the loan documents by failing to make monthly payments to the plaintiff when due. On March 2, 2021, the plaintiff sent the defendants demand letters advising that they were in default under the loan documents and that the full amounts due under the loan documents were immediately payable. The demand letters further advised that if payment was not made, the defendants were to immediately turn over the medallions securing the loans to the plaintiff. The defendants have not cured their defaults or turned the medallions over to the plaintiff.

As of February 16, 2022, inclusive of interest at the applicable rates (1) Fallek and AMC owed \$470,582.35 under the applicable note, (2) Fallek and Denali owed \$1,067,011.06 under the applicable note, (3) Fallek and Heart owed \$703,341.37 under the applicable note, (4) Fallek and Jennifer owed \$1,079,474.54 under the applicable note, (5) Fallek and King owed \$470,583.16 under the applicable note, (6) Fallek and Misida owed \$470,584.87 under the applicable note, (7) Fallek and Natinat owed \$671,104.74 under the applicable note, (8) Fallek and Neros owed \$1,096,188.39 under the applicable note, (9) Fallek and Niti owed \$1,096,199.76 under the applicable note, (10) Fallek and RA owed \$1,079,471.54 under the applicable note, (11) Fallek and RV owed \$1,079,474.54 under the applicable note, (12) Fallek

and Regis owed \$2,002,893.66 under the applicable note, and (13) Fallek and Chuoxer owed \$963,609.43 under the applicable note.

The plaintiff's submissions establish, *prima facie*, its entitlement to relief on the first, fourth, seventh, tenth, thirteenth, sixteenth, nineteenth, twenty-second, twenty-fifth, twenty-eighth, thirty-first, thirty-fourth, and thirty-seventh causes of action sounding in breach of the notes, and the third, sixth, ninth, twelfth, fifteenth, eighteenth, twenty-first, twenty-fourth, twenty-seventh, thirtieth, thirty-third, thirty-sixth, and thirty-ninth causes of action sounding in breach of the guaranties. Specifically, the plaintiff's proof demonstrates, with respect to each of the notes, (1) the existence of a contract, (2) the plaintiff's performance under the contract, (3) the defendant signatory's breach of that contract, and (4) resulting damages. See Second Source Funding, LLC v Yellowstone Capital, LLC, 144 AD3d 445 (1st Dept. 2016); Harris v Seward Park Housing Corp., 79 AD3d 425 (1st Dept. 2010); Flomenbaum v New York Univ., 71 AD3d 80 (1st Dept. 2009). Where, as here, a contractual obligation is a promissory note, a plaintiff meets its burden by proving the existence of the subject note and nonpayment according to its terms. See Bonds Financial, Inc. v Kestrel Technologies, LLC, 48 AD3d 230 (1st Dept. 2008). Moreover, "where a guaranty is clear and unambiguous on its face and, by its language, absolute and unconditional, the signer is conclusively bound by its terms absent a showing of fraud, duress or other wrongful act in its inducement." Citibank, N.A. v Uri Schwartz & Sons Diamonds Ltd., 97 AD3d 444, 446–47 (1st Dept. 2012) (quoting National Westminster Bank USA v Sardi's Inc., 174 AD2d 470, 471 [1st Dept. 1991]). The terms of the subject guaranties, executed by Fallek in his capacity as authorized signatory for the applicable corporate defendant, are clear, unambiguous, absolute, and unconditional, and the plaintiff avers that the guaranties were duly and lawfully procured.

The plaintiff's second, fifth, eighth, eleventh, fourteenth, seventeenth, twentieth, twenty-third, twenty-sixth, twenty-ninth, thirty-second, thirty-fifth, and thirty-eighth causes of action seek to foreclose on the medallions securing the loans issued under the notes. A plaintiff asserting a cause of action sounding in replevin must establish that the defendants are in possession of certain property to which the plaintiff claims a superior right. See Nissan Motor Acceptance Corp. v Scialpi, 94 AD3d 1067 (2nd Dept. 2012). The plaintiff makes a *prima facie* showing of its entitlement to the replevin of the collateral secured by the security agreements and UCC-1 statements, including thirty New York City Taxi Medallions, numbers 7K56, 7K57, 8N71, 8N72, 6J19, 6J20, 6J21, 1H94, 1H95, 8M94, 8M95, 9P37, 9P38, 7L38, 7L39, 7L40, 8N75, 8N76, 8N73, 8N74, 1H96, 1J38, 1J36, 1J37, 8K79, 8K80, 8K81, 8K82, 1H24, and 1H48. The plaintiff establishes its right to judgment on its second, fifth, eighth, eleventh, fourteenth, seventeenth, twentieth, twenty-third, twenty-sixth, twenty-ninth, thirty-second, thirty-fifth, and thirty-eighth causes of action by demonstrating that it now lawfully holds the loan documents and UCC-1 statements, the defendants defaulted thereunder by virtue of their nonpayment, the defendants are in possession of the collateral, and the plaintiff has a right to possession and delivery of the collateral under the terms of the security agreements and UCC-1 statements.

The defendants fail to raise a material issue of fact in opposition to the plaintiff's showing. The defendants' claim that the plaintiff is barred from recovering under the loan documents under the doctrine of estoppel is without merit. While the defendants aver that the plaintiff engaged in "dangerous and predatory lending practices" and "artificially drove up the price of taxi medallions," the defendants offer no factual proof to support their claims. The generalized discussions in news articles submitted by the defendants about the medallion lending industry's alleged exploitative practices fail to remedy this defect. Further, the defendants'

assertions that they expected to receive future loan modifications “in accordance with the industry custom” is flatly contradicted by specific, written provisions in several of the loan documents plainly stating that the plaintiff “is under no obligation to further modify, extend or refinance the loan.” These provisions, and the defendants’ assertions that they should be disregarded, have been addressed at length in the court’s prior order dismissing the defendants’ counterclaims. In sum, the defendants fail to introduce any evidence that they were fraudulently induced into entering any of the loan documents, or that the plaintiff engaged in any specified wrongful conduct sufficient to void the defendants’ obligations under the documents.

Further, the doctrines of frustration of purpose and impossibility are inapplicable to the facts at hand.

The frustration of purpose doctrine “offers a defense against enforcement of a contract when the reasons for performing the contract cease to exist due to an unforeseeable event which destroys the reasons for performing the contract.” Structure Tone, Inc. v Universal Services Group, Ltd., 87 AD3d 909, 912 (1st Dept. 2011). “In order to invoke the doctrine of frustration of purpose, the frustrated purpose must be so completely the basis of the contract that, as both parties understood, without it, the transaction would have made little sense.” Center for Specialty Care, Inc. v CSC Acquisition I, LLC, 185 AD3d 34, 42 (1st Dept. 2020) (quoting Warner v Kaplan, 71 AD3d 1, 6 [1st Dept. 2009]) (quotation marks omitted). Importantly, frustration of purpose is not available “where the event which prevented performance was foreseeable and provision could have been made for its occurrence.” Id. at 43 (quoting Warner v Kaplan, supra at 6) (quotation marks omitted). Moreover, economic hardship and reduced revenues alone, even if occasioned by an arguably unforeseeable circumstance such as a pandemic, do not warrant application of the frustration of purpose doctrine. See Gap, Inc. v 170

Broadway Retail Owner, LLC, 195 AD3d 575 (1st Dept. 2021); 558 Seventh Ave. Corp. v Times Square Photo Inc., 194 AD3d 561 (1st Dept. 2021).

Impossibility is a defense to a breach of contract action “only when ... performance [is rendered] objectively impossible ... by an unanticipated event that could not have been foreseen or guarded against in contract.” Kel Kim Corp. v Central Markets, Inc., 70 NY2d 900, 902 (1987); see 407 East 61st Garage, Inc. v Savoy Fifth Ave. Corp., 23 NY2d 275, 281 (1968) (“[T]he excuse of impossibility of performance is limited to the destruction of the means of performance by an act of God, vis major, or by law.”). The impossibility defense to contract performance must be applied narrowly, “due in part to judicial recognition that the purpose of contract law is to allocate risks that might affect performance and that performance should be excused only in extreme circumstances.” Kel Kim Corp. v Central Markets, Inc., *supra* at 902. “[W]here impossibility or difficulty of performance is occasioned only by financial difficulty or economic hardship, even to the extent of insolvency or bankruptcy, performance of a contract is not excused.” 407 East 61st Garage, Inc. v Savoy Fifth Ave. Corp., *supra* at 281-82; see Valenti v Going Grain, Inc., 159 AD3d 645 (1st Dept. 2018); Urban Archaeology Ltd. v 2017 E. 57th Street LLC, 68 AD3d 562 (1st Dept. 2009).

Notwithstanding that the inability of the defendants to generate sufficient profits from the medallions to repay the loans may constitute a difficulty outside of the defendants’ control, such circumstance does not meet the standard for frustration of purpose or impossibility under New York law. Neither the COVID-19 pandemic nor the failure of an industry due to competition from new business models, as the defendants allege here, are events that destroy the subject matter of a contract to loan money such that, had they been foreseen, the “transaction would have made little sense.” Moreover, neither render repayment on a loan “objectively impossible.”

Rather, they constitute economic hardships, which are expressly excluded from the ambit of both the frustration of purpose and the impossibility doctrines.

The defendants' invocation of the defenses of laches and unclean hands are without merit for the reasons stated in the plaintiff's papers. The defendants' arguments related to its counterclaim sounding in breach of the duty of good faith and fair dealing are similarly without merit for the reasons stated in the plaintiff's papers and as discussed in the court's order dated February 8, 2022, dismissing such counterclaim. The defendants' remaining affirmative defenses are deemed abandoned in light of the defendants' failure to oppose the plaintiff's arguments for their dismissal. Accordingly, the defendants present no factual issue as to whether their performance under the loan documents should be excused.

There is no merit to the defendants' argument that the plaintiff's motion is premature due to outstanding discovery as they "fail[] to establish how discovery will uncover further evidence or material in the exclusive possession" of the plaintiff. Kent v 534 East 11th Street, 80 AD3d 106, 114 (1st Dept. 2010). "[T]he party invoking CPLR 3212(f) must show some evidentiary basis supporting its need for further discovery." Green v Metropolitan Transp. Auth. Bus Co., 127 AD3d 421 423 (1st Dept. 2015). It is well settled that mere hope or speculation that discovery may uncover evidence to defeat the motion is insufficient. See Reyes v Park, 127 AD3d 459 (1st Dept. 2015); Alcaron v Ucan White Plains Housing Dev. Fund Corp., 100 AD3d 431 (1st Dept. 2012); Kent v 534 East 11th Street, *supra*; Flores v City of New York, 66 AD3d 599 (1st Dept. 2009). The defendants' conclusory assertion that the plaintiff did not properly credit purported payments they made, without any further detail as to these alleged payments, does not create a factual issue sufficient to deny the plaintiff's motion.

For the foregoing reasons, the branch of the plaintiff's motion seeking summary judgment on the complaint is granted. The court notes that while the loan documents provide for interest at a higher rate upon default, the plaintiff only seeks interest at the lower, modified interest rates on the outstanding balances due under the loan documents through February 16, 2022, and thereafter through the date of judgment.

As to the plaintiff's request for an award of contractual attorney's fees, the subject loan documents expressly provide for attorney's fees, and in his affirmation, Mitchell D. Cohen, Esq., details the legal work performed and billed, for a total of \$40,929.30. Such amount is supported by a billing summary attached to Cohen's affirmation. Because the billing summary contains some instances of block billing and many redactions that make it impossible to ascertain what work was performed on certain entries, the court finds that a reduction of 25% from the plaintiff's fees is appropriate. See Matter of Freeman, 34 NY2d 1 (1974); Matter of Barich, 91 AD3d 769 (2nd Dept. 2012). Accordingly, the plaintiff is entitled to fees in the sum of \$30,696.98, which can be divided in thirteen to represent the work performed to enforce each of the thirteen notes and related documents at issue in this action

III. CONCLUSION

In light of the foregoing, it is hereby

ORDERED that that the plaintiff's motion pursuant to CPLR 3212 for summary judgment on the complaint is granted to the extent that the court awards summary judgment on each cause of action of the complaint, plus contractual attorney's fees and costs and disbursements; and it is further

ORDERED that the Clerk of the court shall enter a money judgment in favor of the plaintiff

(i) on the first and third causes of action against defendants AMC Taxi, Inc., and Victor Fallek, jointly and severally, in the principal sum of \$444,522.99, plus accrued interest through February 16, 2022, in the sum of \$26,059.36, plus interest at the rate of \$36.54 per diem from February 16, 2022, through the date of judgment, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements;

(ii) on the fourth and sixth causes of action against defendants Denali Hacking, LLC, and Victor Fallek, jointly and severally, in the principal sum of \$1,046,564.84, plus accrued interest through February 16, 2022, in the sum of \$20,446.22, plus interest at the rate of \$28.67 per diem from February 16, 2022, through the date of judgment, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements;

(iii) on the seventh and ninth causes of action against defendants Heart Transit, Inc., and Victor Fallek, jointly and severally, in the principal sum of \$664,395.13, plus accrued interest through February 16, 2022, in the sum of \$38,946.24, plus interest at the rate of \$54.61 per diem from February 16, 2022, through the date of judgment, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements;

(iv) on the tenth and twelfth causes of action against defendants Jennifer Hacking, LLC, and Victor Fallek, jointly and severally, in (1) the principal sum of \$611,068.15, plus interest at the rate of \$50.22 per diem from February 16, 2022, through the date of judgment, and (2) the principal sum of \$415,786.25, plus interest at a rate of \$11.39 per diem from February 16, 2022, through the date of judgment, plus accrued interest through

February 16, 2022, in the sum of \$52,620.14, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements;

(v) on the thirteenth and fifteenth causes of action against defendants King Victor Taxi Corp., and Victor Fallek, jointly and severally, in the principal sum of \$444,523.80, plus accrued interest through February 16, 2022, in the sum of \$26,059.36, plus interest at the rate of \$36.54 per diem from February 16, 2022, through the date of judgment, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements;

(vi) on the sixteenth and eighteenth causes of action against defendants Misida Trans Corp., a/k/a Misida Transit Corp., and Victor Fallek, jointly and severally, in the principal sum of \$444,525.51, plus accrued interest through February 16, 2022, in the sum of \$26,059.36, plus interest at the rate of \$36.54 per diem from February 16, 2022, through the date of judgment, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements;

(vii) on the nineteenth and twenty-first causes of action against defendants Natinat Transit, Inc., and Victor Fallek, jointly and severally, in the principal sum of \$658,246.42, plus accrued interest through February 16, 2022, in the sum of \$12,858.32, plus interest at the rate of \$18.03 per diem from February 16, 2022, through the date of judgment, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements;

(viii) on the twenty-second and twenty-fourth causes of action against defendants Neros Hacking, LLC, and Victor Fallek, jointly and severally, in the principal sum of \$1,064,972.85, plus accrued interest through February 16, 2022, in the sum of \$31,215.54, plus interest at the rate of \$29.18 per diem from February 16, 2022, through

the date of judgment, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements;

(ix) on the twenty-fifth and twenty-seventh causes of action against defendants Niti Hacking, LLC, and Victor Fallek, jointly and severally, in the principal sum of \$1,064,984.22, plus accrued interest through February 16, 2022, in the sum of \$31,215.54, plus interest at the rate of \$43.77 per diem from February 16, 2022, through the date of judgment, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements;

(x) on the twenty-eighth and thirtieth causes of action against defendants RA Hacking, LLC, and Victor Fallek, jointly and severally, in (1) the principal sum of \$611,065.15, plus interest at the rate of \$50.22 per diem from February 16, 2022, through the date of judgment, and (2) the principal sum of \$415,786.25, plus interest at a rate of \$11.39 per diem from February 16, 2022, through the date of judgment, plus accrued interest through February 16, 2022, in the sum of \$52,620.14, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements;

(xii) on the thirty-first and thirty-third causes of action against defendants RV Hacking, LLC, and Victor Fallek, jointly and severally, in (1) the principal sum of \$611,068.15, plus interest at the rate of \$50.22 per diem from February 16, 2022, through the date of judgment, and (2) the principal sum of \$415,786.25, plus interest at a rate of \$11.39 per diem from February 16, 2022, through the date of judgment, plus accrued interest through February 16, 2022, in the sum of \$52,620.14, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements;

(xiii) on the thirty-fourth and thirty-sixth causes of action against defendants Regis Cab Corp., and Victor Fallek, jointly and severally, in (1) the principal sum of \$1,222,138.40, plus interest at the rate of \$100.45 per diem from February 16, 2022, through the date of judgment, and (2) the principal sum of \$681,572.50, plus interest at a rate of \$18.67 per diem from February 16, 2022, through the date of judgment, plus accrued interest through February 16, 2022, in the sum of \$99,182.76, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements; and

(xiv) on the thirty-seventh and thirty-ninth causes of action against defendants Chuoxer, LLC, and Victor Fallek, jointly and severally, in (1) the principal sum of \$737,967.80, plus interest at the rate of \$30.33 per diem from February 16, 2022, through the date of judgment, and (2) the principal sum of \$194,112.25, plus interest at a rate of \$5.32 per diem from February 16, 2022, through the date of judgment, plus accrued interest through February 16, 2022, in the sum of \$31,529.38, plus attorney's fees in the sum of \$2,361.31, and costs and disbursements; and it is further

ADJUDGED that the plaintiff Pentagon Federal Credit Union, as Successor by Merger to Progressive Credit Union, has a right of possession of New York City Taxi Medallion Nos. 7K56, 7K57, 8N71, 8N72, 6J19, 6J20, 6J21, 1H94, 1H95, 8M94, 8M95, 9P37, 9P38, 7L38, 7L39, 7L40, 8N75, 8N76, 8N73, 8N74, 1H96, 1J38, 1J36, 1J37, 8K79, 8K80, 8K81, 8K82, 1H24, and 1H48, superior to that of the defendants; and it is further

ORDERED that the plaintiff, Pentagon Federal Credit Union, as Successor by Merger to Progressive Credit Union, shall have immediate and permanent possession of New York City Taxi Medallion Nos. 7K56, 7K57, 8N71, 8N72, 6J19, 6J20, 6J21, 1H94, 1H95, 8M94, 8M95, 9P37, 9P38, 7L38, 7L39, 7L40, 8N75, 8N76, 8N73, 8N74, 1H96, 1J38, 1J36, 1J37, 8K79, 8K80,

8K81, 8K82, 1H24, and 1H48 from the defendants in possession of said medallions, and the defendants shall cooperate with the plaintiff and deliver New York City Taxi Medallion Nos. 7K56, 7K57, 8N71, 8N72, 6J19, 6J20, 6J21, 1H94, 1H95, 8M94, 8M95, 9P37, 9P38, 7L38, 7L39, 7L40, 8N75, 8N76, 8N73, 8N74, 1H96, 1J38, 1J36, 1J37, 8K79, 8K80, 8K81, 8K82, 1H24, and 1H48 to the plaintiff within thirty (30) days of the service this order and judgment upon them; and it is further

ORDERED that in the event any defendant in possession of any of New York City Taxi Medallion Nos. 7K56, 7K57, 8N71, 8N72, 6J19, 6J20, 6J21, 1H94, 1H95, 8M94, 8M95, 9P37, 9P38, 7L38, 7L39, 7L40, 8N75, 8N76, 8N73, 8N74, 1H96, 1J38, 1J36, 1J37, 8K79, 8K80, 8K81, 8K82, 1H24, and/or 1H48 fails to deliver such medallion to the plaintiff within thirty (30) days of the service this order and judgment upon it, the sheriff or other authorized official of any county where the New York City Taxi Medallion Nos. 7K56, 7K57, 8N71, 8N72, 6J19, 6J20, 6J21, 1H94, 1H95, 8M94, 8M95, 9P37, 9P38, 7L38, 7L39, 7L40, 8N75, 8N76, 8N73, 8N74, 1H96, 1J38, 1J36, 1J37, 8K79, 8K80, 8K81, 8K82, 1H24, and/or 1H48 are found are hereby directed to seize and immediately deliver same to the plaintiff without bond, and if New York City Taxi Medallion Nos. 7K56, 7K57, 8N71, 8N72, 6J19, 6J20, 6J21, 1H94, 1H95, 8M94, 8M95, 9P37, 9P38, 7L38, 7L39, 7L40, 8N75, 8N76, 8N73, 8N74, 1H96, 1J38, 1J36, 1J37, 8K79, 8K80, 8K81, 8K82, 1H24, and/or 1H48 are not delivered to the sheriff or other authorized official, the sheriff or other authorized official may break open, enter, and search for the New York City Taxi Medallion Nos. 7K56, 7K57, 8N71, 8N72, 6J19, 6J20, 6J21, 1H94, 1H95, 8M94, 8M95, 9P37, 9P38, 7L38, 7L39, 7L40, 8N75, 8N76, 8N73, 8N74, 1H96, 1J38, 1J36, 1J37, 8K79, 8K80, 8K81, 8K82, 1H24, and/or 1H48 wherever New York City Taxi Medallion Nos. 7K56, 7K57, 8N71, 8N72, 6J19, 6J20, 6J21, 1H94, 1H95, 8M94, 8M95, 9P37, 9P38, 7L38,

7L39, 7L40, 8N75, 8N76, 8N73, 8N74, 1H96, 1J38, 1J36, 1J37, 8K79, 8K80, 8K81, 8K82,
1H24, and/or 1H48 may be located; and it is further

ORDERED that the Clerk shall mark the file accordingly.

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

DATED: September 22, 2022



NANCY M. BANNON, J.S.C.
HON. NANCY M. BANNON