SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. MELISSA A. CRANE** **PART** 60M

Justice

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STEVEN J. SNYDER,

Plaintiff,

- v -

JULIE K. WOLF, MIXT SNACKS, LLC

Defendant.

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INDEX NO. 655882/2021

DECISION AFTER TRIAL

This case concerns a business transaction involving plaintiff Steven J. Snyder ("Steven"), defendants Julie K. Wolf ("Julie") Mixt Snacks, LLC ("Mixt"), and non-party James Wolf ("James"). Steven and James have been friends for more than 20 years. Julie is James's daughter and has known Steven since she was twelve.

In early 2017, James, who previously worked in the food supply industry, approached Steven about becoming involved in Mixt, a business James and Julie were contemplating. There was no agreement as to the corporate form the parties would use to operate the business. There was no agreement about whether or not Steven would receive an equity stake or interest in the business if he provided funding. However, Steven trusted his close friends and infused the business with cash in the hope of keeping Mixt afloat, only never to see that money again.

Procedural Posture

Steven commenced this case on November 7, 2021, alleging claims for declaratory relief, breach of fiduciary duty, fraud, conversion, and unjust enrichment. On January 7, 2022,

defendants moved to dismiss the breach of fiduciary duty, fraud, and conversion claims. The court granted the motion, leaving the remaining unjust enrichment claim for trial.[1]

The court held a one-day virtual bench trial on consent over Microsoft Teams on January 11, 2023. The court thanks counsel for both sides for their diligent efforts in litigating this case.

At trial, Steven sought to recover $291,112, plus prejudgment interest, from Mixt and Julie, jointly and severally. That figure represents $204,112 that Steven transferred directly to Mixt, and $87,000 that Steven transferred to James prior to Mixt's formation. James was never an owner, member, employee, or officer of Mixt once the company was formed.

Thus, the specific questions for trial were: (1) is Mixt is liable for the $204,112 transferred to it directly; (2) is Mixt is liable for the $87,000 transferred to James before Mixt's formation; and (3) can Julie can be held jointly and severally liable for the some or all of the $291,112 under a veil piercing theory?

Credibility Determinations

At trial, the court heard testimony from two witnesses: (1) Steven, the plaintiff; and (2) Julie, the individual defendant and Mixt's sole operator and member.

Steven testified by affidavit on direct and was cross-examined by defendants' counsel. The court found no reason to doubt his credibility. Plaintiff's counsel examined Julie during Steven's case-in-chief, and Julie also testified in her defense and was questioned by counsel for both parties. The court did not find her particularly credible, considering her purported inability to answer basic questions about a business that she claimed to have so closely ran.

For instance, when asked about how Mixt recorded received funds, Julie could not provide a response, and instead claimed that she could not remember, despite being the company's sole

[1] The court also impliedly dismissed the first cause of action seeking a declaratory judgment (Doc 46 [MS 02 Decision]).

manager, signatory, decision-maker, and individual overseeing books and records (Doc 65 [Trial Tr.] at 85-86). When presented with questions that weighed against her interests, Julie shied from answering, and instead pinned the blame on her father.[2] For example, when asked why she kept the money she received, Julie responded that "there was nothing that said you can or can't use it," that "[i]t was just money that was wired into the account," and that "it was [James] who was soliciting these funds" and that "[she] never solicited any of them" (*id.*, at 86:7-17).

The court finds Julie's evasive answers concerning, considering that they relate directly to the core disputes in this case. Additionally, that she had no idea when or where the funds came from, even though she was the individual in charge of Mixt's books and records, strains credulity. Ultimately, Julie's answers negatively impacted her credibility.

Factual Findings

After selling another company in 2010, James began a new business focused on innovative, upscale snacks and nut products (Doc 62 [Snyder Trial Aff.], ¶ 9). Eventually, Julie asked to help with starting and running the business, and he agreed. Julie then began assisting by designing packaging, providing personal input, preparing presentation materials to aid with external engagements, and observing meetings James thought were appropriate for her learning.

I. The Initial Discussions

In early 2017, James approached Steven about becoming a "partner" in Mixt, the business that James and Julie discussed launching (Doc 62 [Snyder Trial Aff.], ¶ 9). Mixt was preparing to launch products on a large scale at a regional grocery store chain and needed funds to do so (*id.*). To that end, James asked Steven if he could provide the financing (*id.*).

[2] The court finds it peculiar that James is not a party, or even a witness, and has not appeared in any fashion in this case.

Afterwards, "[i]n an attempt to better understand the opportunity and the risks involved in the Mixt business, as well as to understand what [his] funds would be used for, [Steven] asked [James] for a set of financial projections" (Doc 62 [Snyder Trial Aff.], ¶ 10). Julie sent him these projections on April 16, 2017 (Doc 62 [Snyder Trial Aff.], ¶ 11). The projections contemplated a $75,000 equity infusion, indicated how funds would be used, and provided anticipated revenues, costs, and profits for the first 24 months of operations (*id.*, ¶¶ 10-11).

Based on his review of these projections, Steven decided to become a "partner" in Mixt (*id.*, ¶ 13). However, at that point, the parties neither discussed what percentage of Mixt Steven would own due to his investment, nor reached an agreement on the corporate form of the business (*id.*). Instead, Steven "trusted that [his] friend of twenty years and his daughter, [Julie], would do the right thing at the appropriate time" (*id.*).

II. The Fund Transfers

After these discussions, Steven transferred funds to: (a) James, directly, before Mixt's formation as an entity; and (b) later, to Mixt's bank account, directly, after its formation.

a. Pre-Formation Transfers ($87,000)

Steven initially sent funds directly to James prior to Mixt's formation (*id.*, ¶ 15). On February 22, 2017, after a meeting regarding Mixt's business, Steven provided James with a $6,000 check based on the prior requests that he join as a partner (Doc 62 [Snyder Trial Aff.], ¶ 16). Afterwards, on March 3, 2017, Steven wired another $6,000 to James (*id.*, ¶ 16; plaintiff's exhibit T). Snyder believed these funds were for the business' general startup costs (*id.*). On May 5, 2017, Steven also wired $75,000 to James for Mixt based on the projections that Julie had provided (*id.*, ¶ 17; plaintiff's exhibit T). At that time, Steven had provided a total of $87,000 to James (*id.*, ¶ 18; plaintiff's exhibit X).

***b. Post-Formation Transfers* ($204,112)**

On June 23, 2017, Mixt was organized and formed as an LLC in Massachusetts, and on August 4, 2017, it opened its bank account (Doc 62 [Snyder Trial Aff.], ¶ 19; plaintiff's exhibits E, I). Sections 2.01 and 3.01 of Mixt's Operating Agreement identified Julie as the sole member and operator. Under sections 3.03 and 3.04, only Julie had authority, as Mixt's manager, to enter into transactions binding the company (Doc 40 [Operating Agreement]).

In August or early September 2017, James informed Steven about the new account and that Mixt would operate as "Mixt Snacks LLC" moving forward (Doc 62 [Snyder Trial Aff.], ¶ 20). Subsequently, Steven made the following transfers into Mixt's account directly: $35,000 on September 11, 2017; $15,000 on October 13, 2017; $50,000 on November 30, 2017; $12,612 on January 30, 2019; $35,000 on April 1, 2019; $16,500 on July 31, 2019; $10,000 on August 26, 2019; and $10,000 on October 10, 2019 (*id.*, ¶ 21; plaintiff's exhibits T, X). In total, Steven transferred $204,112 to Mixt.

III. The October 2019 Meeting & Julie's Conduct

In late October 2019, Steven and Julie met to discuss the business (plaintiff's exhibit U, ¶ 35). During the meeting, Steven reminded her that her father was the business' founder and conceiver and that the partners all needed to agree on a strategic direction (*id.*, ¶ 36). Julie responded that her strategy did not need approval, and Steven replied that she had partners and needed their respective buy-ins (*id.*, ¶ 35). The parties did not come to any substantive agreement, but they agreed to meet again later that year to resolve these issues.

IV. The January 2020 Meeting & Julie's Conduct

On January 21, 2020, Steven emailed the Wolfs a proposed agenda for a planned meeting in New York on January 29, 2020 (plaintiff's exhibit U at ¶ 38). During the meeting, Steven and James raised the same concerns that Steven raised during the meeting in October 2019. Julie refused to discuss Mixt's strategic or operational aspects, such as how it would move forward with a new business opportunity for testing its snacks in HomeGoods (*id.*). She also informed Steven and her father that she unilaterally ordered goods, without either of their authorizations, for a potential deal with Stop & Shop (*id.*, ¶ 39).

Ultimately, Julie agreed to follow up with Steven and her father on these matters, most notably, the need to formalize operations and ownership structure and to move forward with the contemplated HomeGoods opportunity with which her father was also involved (*id.*, ¶ 40).

V. Communications and Events After the February 2020 Meeting & Julie's Conduct

Afterwards, the parties communicated several times, including on call on February 20, 2020 to discuss the HomeGoods opportunity, and through an email on February 28, 2020 regarding name changes to products Mixt hoped to sell to HomeGoods (*id.*, ¶ 41). Additionally, on April 29, 2020, Steven emailed the Wolfs summarizing the takeaways from the January 2020 meeting and requesting updates upon matters the parties had agreed to follow up. (*id.*, ¶ 43).

On May 4, 2020, Julie emailed Steven acknowledging that Mixt had received the "$228,000" that he wired to it (plaintiff's exhibit D). At her deposition, Julie clarified that the amount received was $204,112, not $228,000 (Doc 62 [Snyder Trial Aff.], ¶ 22). The bank account statements for the relevant time also confirms that Mixt received the $204,112 in its account (Doc 62 [Snyder Trial Aff.], ¶ 23; plaintiff's exhibits I, J, K, L). In her email, Julie also stated that Mixt had engaged an accountant, promised to provide First Quarter 2020 and April 2020 financials within 30 days, and requested proof of additional funds (Doc 62 [Snyder Trial Aff.], ¶ 22;

plaintiff's exhibit D). She also promised to discuss Steven's role as an investor or lender with Mixt and, if necessary, update the governing documents or draft a promissory note (*id.*).

On June 2, 2020, Julie sent a profit and loss statement for the period of January 2020 to April 2020 (*id.*, ¶ 26 [c]; plaintiff's exhibit G). On June 16, 2020, she again emailed her father and Steven to inform them that a decision was needed on the HomeGoods matter (Doc 10 [6/16/20 Email]; plaintiff's exhibit H). She also promised to send financials and account balances at each quarter's end, and to review and discuss them during future meetings (*id.*). She concluded that "[they] [would] get all of this into a more formal agreement once [they] further [their] discussions regarding the relationship" (*id.*).

Months later, on October 27, 2020 and October 30, 2020, Steven emailed Julie and requested the quarterly financials, but did not receive a response (Doc 11 [11/17/20 Email Re: Financials] at 3-4). Later, on November 17, 2020, Steven emailed Julie again to request the information. Again, he did not receive a response (*id.*, at 3; plaintiff's exhibit H).

On May 13, 2021, Steven's attorney sent Julie a letter demanding to inspect Mixt's books and records (Doc 12 [5/13/21 Letter]). Julie responded that neither Steven nor her father had any equity interests in Mixt, and Steven's attorney replied by highlighting the money that Steven had given Mixt and requested a response by May 31, 2021 (Doc 13 [5/21/20 Email]). However, no response was received (*id.*).

VI. Evidence Concerning the Use of Pre-Formation Funds and Mixt's and Julie's Use of Post-Formation Funds

At trial, the parties submitted evidence related to the use of the pre-formation funds he provided Mixt. This limited evidence included Steven's sworn testimony. He described the relevant events surrounding and leading up to the transfers, the various wire confirmations from his bank, investment accounts, and Mixt's bank account statements, documents and

communications between the parties related to the $75,000 wire transfer he provided Mixt for various business operations. The credible evidence established that Steven sent James two payments totaling $6,000 each, and later sent one payment totaling $75,000 after he received the Mixt business proposal. The evidence did not conclusively establish whether or where James transferred those funds.

The parties also submitted evidence at trial related to the post-formation funds that Steven provided. This evidence included Mixt's bank statements, that list the dates Mixt received the funds and indicate Mixt did not reimburse Steven for them, Mixt's testimony that it received, but has not returned, these funds, and Steven's own direct sworn testimony. Julie testified that she withdrew a small portion of these funds from the Mixt account and used them as her salary. Julie would write herself checks, representing her salary, from the Mixt account.

Conclusions of Law

I. Unjust Enrichment

Steven argues that he is entitled to recover $291,112 from Mixt on his claim for Unjust Enrichment. That amount is comprised of: (a) the $87,000 that he transferred to James before Mixts' formation; and (b) the $204,112 that he transferred directly to Mixt after its formation.

Unjust enrichment is a "quasi-contract claim and contemplates an obligation imposed by equity to prevent injustice, in the absence of an actual agreement between the parties (*Georgia Malone & Co., Inc. v Rieder*, 19 NY3d 511, 516 [2012] [internal quotations omitted]). It is "the receipt by one party of money or a benefit to which it is not entitled, at the expense of another" (*Abacus Fed. Sav. Bank v Lim*, 75 AD3d 472, 473 [1st Dept 2010]). Thus, the basis for such a claim is that the "defendant has obtained a benefit which in equity and good conscience should be paid to the plaintiff" (*Corsello v Verizon NY, Inc.*, 18 NY3d 777, 790 [2012] [internal quotations

omitted]). The critical inquiry is whether "it is against equity and good conscience to permit the defendant to retain what is sought to be recovered" (*Mandarin Trading Ltd v Wildenstein*, 16 NY3d 173, 182 [2011] [internal citations omitted]). To recover on an unjust enrichment claim, a plaintiff must show, "that (1) the other party was enriched, (2) at that party's expense, and (3) that it is against equity and good conscience to permit the other party to retain what is sought to be recovered" (*Philips Intl. Invs., LLC v Pektor*, 117 AD3d 1, 7 [1st Dept 2014]).

a. Pre-Formation Liability

Steven seeks the $87,000 that he transferred to James before Mixt's formation on the ground that an entity is responsible for pre-formation liabilities incurred in furtherance of its business. This amount is comprised of: (i) the $75,000 that Steven wired to James prior to Mixt's formation and bank account opening in April 2017; (ii) the $6,000 check he provided James on February 22, 2017; and (iii) the $6,000 he wired to James on March 3, 2017.

A corporation is bound to liabilities its promotors incurred in its name prior to the completion of incorporation, where the corporation subsequently adopts the liabilities by express ratification, or by the acceptance of benefits referrable to it (*see generally Reif v Williams Sportswear, Inc.*, 9 NY2d 387, 391 [1961] ["(A) corporation will be liable on a contract of its promoters only if adopted, either expressly or by acceptance of benefits referable to that contract."]). While this principle is most frequently applied to express contracts, it has also been applied to compensate parties who deliver goods, services, or other value to a pre-incorporation business (*see e.g. Eden Temporary Services, Inc. v. House of Excellence Inc.*, 270 A.D.2d 66 [1st Dept 2000]; *see also Universal Indus. Corp. v. Lindstrom*, 92 A.D.2d 150, 152 [4th Dept 1983] [reversing summary judgment and holding that where business accepted delivery of goods prior to incorporation, subsequent entity could be found liable for payment for goods]).

Concerning the $75,000 transfer, the evidence provided that on April 16, 2017, Julie, at her father's request, emailed Steven financial projections indicating that Mixt would need $75,000 to operate in its first month and that Mixt would use the funds for various initial business costs such as displays, printing plates, start-up costs, and working capital (*id.*, ¶¶ 11-12; plaintiff's exhibit F). It is undisputed that, a few weeks later on May 5, 2017, Steven sent $75,000 to James with the intention of forming the business that would become Mixt (Doc 62 [Snyder Trial Aff.], ¶¶ 17, 19; plaintiff's exhibits E, I). At the time, Mixt was not a legal entity, and did not have a bank account (*id.*, ¶ 17). While there was little or no evidence at trial demonstrating that James actually used the $75,000 to form Mixt, the court can infer that those funds were used for the company. This is because the $75,000 Steven sent to James aligns with the figures in the proforma that Steven received from Julie (*see* plaintiff's exhibit F). Steven also testified that the funds seemed to have been specifically earmarked for certain expenses within the business, such as displays, printing plates, working capital and other startup costs (Doc 65 [Trial Tr.] at 45:15-19; 46:19-22; plaintiff's exhibit F).

However, Steven did not establish that the two $6,000 payments to James were used for, or even went towards, forming the company. While it is undisputed that Steven sent an additional $12,000 to James prior to Mixt's formation (Doc 67 [Plaintiff Post-Trial MOL] at 10), the evidence did not demonstrate that James or Julie actually used those funds to form or operate Mixt. In fact, Steven even testified at trial that he did not know whether these funds were actually used in the business (Doc 65 [Trial Tr.] at 7-19). Therefore, Steven has not carried his burden that the $12,000 he sent to James, his admitted friend, was for the business instead of for some other purpose.

Accordingly, the court finds that the evidence established that Mixt was unjustly enriched only in the amount of $75,000 by the pre-formation funds that Steven transferred to James.

Post-Formation Liability – $204,112

The evidence at trial also established that Mixt was unjustly enriched by the $204,112 that Steven transferred to it after its formation.

At trial, the parties stipulated that Mixt received $204,112 from Steven (*see* Doc 65 [Trial Tr.] at 81:17-21, 83:23-84:9, 112:13-17; *see also* plaintiff's exhibits D, T, X). There was evidence of the wire transfers and their receipts, and the bank account statements showing Steven's funds being sent to and received in Mixt's bank account (*see* plaintiff's exhibit I, J, K, L, T). The evidence demonstrated that Mixt used the funds for its business operations and that Mixt did not repay Steven at any point (Doc 62 [Snyder Trial Aff.], ¶ 24). Nor did Mixt provide Steven with any ownership stake in the company (Doc 65 [Trial Tr.] at 84:23-85:3). Julie admitted there was no agreement or documentation indicating that Mixt could keep the money that Steven wired to it (*id.*, at 87:16-18). There is nothing to indicate that this money was a gift. Nor is there anything to indicate it was a loan. If it was an investment, Steven received no consideration for it. There is nothing to indicate Steven received an ownership stake or profit sharing.

Based on the foregoing, the court finds that Mixt was unjustly enriched in the amount of $204,112, and that Steven is entitled to recover that amount from Mixt.

II. Piercing the Corporate Veil

Steven also seeks to hold Julie, Mixt's sole owner and officer, jointly and severally liable for the full amounts of Steven's pre-formation and post-formation transfers under a veil piercing theory.

A party seeking to pierce the corporate veil must demonstrate that "(1) the owners exercised complete domination of the corporation in respect to the transaction attacked; and (2) that such domination was used to commit a fraud or wrong against plaintiff which resulted in plaintiff's

injury" (*Conason v Megan Holding LLC*, 25 NY3d 1, 6 [2015]). However, "[e]vidence of domination alone does not suffice without an additional showing that it led to inequity, fraud or malfeasance" (*Americore Drilling & Cutting, Inc. v EMB Contr. Corp.*, 198 AD3d 941, 946 [2d Dept 2021]), citing *TNS Holdings, Inc. v MKI Sec. Corp.*, 92 NY2d 335, 339 [1998]). "Factors to be considered by a court in determining whether to pierce the corporate veil include failure to adhere to corporate formalities, inadequate capitalization, commingling of assets, and use of corporate funds for personal use" (*Millennium Const., LLC v Loupolover*, 44 AD3d 1016, 1016-1017 [2d Dept 2007] [internal citations and quotations omitted).

a. First Prong – Complete Domination Over Mixt

Initially, Steven has failed to establish that Julie exercised complete domination over Mixt at the time of the pre-formation transfer of $75,000. At that time, Mixt was not yet formed as an LLC and the evidence tends to establish that James, not Julie, was in charge of launching the nascent company. Prior to Mixt's formation, Julie's involvement was limited to sending Steven, at her father's request, the proforma and financial projections that she and her father received from Clark University (Doc 65 [Trial (Doc 65 [Trial Tr.] at 89-90).

However, the evidence establishes that Julie exercised complete dominion over Mixt after its formation. Once formed, Julie served as Mixt's sole member, manager, decision-maker, and sole signatory on its bank account (Doc 65 [Trial Tr.] at 85-86, 102-103; defendant's exhibit 1, §§ 2.01, 2.07, 3.01). She was also the only one with authority to act on Mixt's behalf, to handle the day-to-day finances, and to have access to its bank account's ATM card (*id.* at 103:4:16). Julie also made unilateral decisions on pressing matters without authorization or input from anyone, including her father, and refused, on several occasions, to discuss Mixt's strategic or operational aspects (*id.*, at 103; plaintiff's exhibit U, ¶ 38).

b. Second Prong – Domination Used to Commit Fraud or Wrong

Nevertheless, Steven failed to satisfy the second prong by establishing that Julie used her domination to commit a fraud or wrong against him resulting in his injury. This is not a case where a defendant has raided the corporation for his or her own personal interests. The evidence at trial demonstrated that the bulk of the funds were spent on business expenses (*see generally* plaintiff's exhibits I, J, K). Meanwhile, plaintiff, with the burden of proof, has failed to show that Julie was not entitled to the tiny salary she took as Mixt's sole manager (*see e.g.* Doc 65 [Trial Tr.] at 45:11-19).

Therefore, Julie is not liable for the $22,000 she withdrew from Mixt's bank account as salary. Nor is she personally liable for the bulk of the funds that were spent on Mixt's business efforts. Accordingly, Steven has failed to satisfy the second prong for piercing the corporate veil.

c. Julie's Individual Liability for Pre-Formation Funds

The court also rejects Steven's alternative argument that Julie is personally liable for the $75,000 pre-formation transfer. There is no basis for the court to find that Julie was unjustly enriched by the $75,000 transfer. Steven testified that the $75,000 was sent to James for the formation of Mixt. There was no evidence at trial that Julie received those funds herself, or otherwise spent them on herself.

Pre-Judgment Interest

Steven also seeks an award of pre-judgment interest at the statutory rate accruing as of the dates of each individual transfer of funds to the Mixt bank account. At trial, Julie argued that March 2022 should be earliest date for any pre-judgment award because Steven's new claim for return of the monies invested into Mixt first arose when he sought return of the $204,112 in March 2022 after the court dismissed his partnership claim/claims to equity (Doc 64 [Defendant Pre-Trial

MOL] at 7). Julie claimed that, before this date, Steven admitted he never requested return of his money; rather, he sought equity or a declaration that he was a partner in Mixt (Doc 66 [Defendant Post-Trial MOL] at 11-12).

Unjust enrichment is a quasi-contract claim to prevent injustice in the absence of an actual agreement between the parties (*Georgia Malone & Co., Inc. v Rieder,* 19 NY3d 511, 516 [2012]. Pre-judgment interest is within the court's discretion on unjust enrichment damages awards (*see* CPLR 5001, 5004; *see also Eighteen Holding Corp. v Drizin*, 268 A.D.2d 371, 372 [1st Dept 2000] [awarding interest under CPLR 5001 on a judgment for unjust enrichment]). Further, CPLR 5001 provides the court with discretion to award pre-judgment interest on equitable claims (*see* CPLR 5001[a]). In equitable actions involving unjust enrichment claims, an award of pre-judgment interest falls within the court's discretion (*see id.*; *Genger v TPR Inv. Assocs., Inc.*, 182 AD3d 417 [1st Dept 2020]; *Universe Antiques Inc. v Gralla*, 168 AD3d 548 [1st Dept 2019]; *Mahoney v Brockbank*, 142 AD3d 200 [2nd Dept 2016]). Additionally, under CPLR 5001(b), "[i]nterest shall be computed from the earliest ascertainable date the cause of action existed." In the case of a cause of action to recover damages in quantum meruit, this point is when the plaintiff demanded payment (*see Atlas Refrigeration–Air Conditioning, Inc. v Lo Pinto*, 33 AD3d 639, 640 [2nd Dept 2006]; *Leroy Callender, P.C. v Fieldman*, 252 AD2d 468, 469 [1st Dept 1998]).

On this record, the earliest evidence of Steven's claim for return of the monies he invested into Mixt is in the complaint that he filed on October 7, 2021. In that complaint, Steven asserts the claim that was the subject of the trial and demands judgment in the amount of $500,000. As such, prejudgment interest should be calculated from that date.

Accordingly, it is

ORDERED that the court renders a verdict, in favor of plaintiff Steven J. Snyder, and against entity defendant Mixt Snacks, LLC, on the remaining cause of action for unjust enrichment (fifth cause of action); and it is further

ORDERED that the Clerk is directed to enter judgment, in favor of plaintiff Steven J. Snyder, and against entity defendant Mixt Snacks, LLC, in the amount of $279,112, together with prejudgment interest at the statutory rate from October 7, 2021, until entry of the judgment, as calculated by the Clerk, and thereafter with post-judgment interest at the statutory rate, together with costs and disbursements as taxed by the Clerk upon the submission of an appropriate bill of costs; and it is further

ORDERED that the remainder of plaintiff's complaint is dismissed; and it is further

ORDERED that there shall be no motion practice without prior notice to the court; and it is further

ORDERED that the Clerk is directed to record the verdict in plaintiff's favor, to enter the judgment accordingly, and to mark this case as disposed.

Dated: 4/28/23

ENTER:

Hon. Melissa A. Crane, J.S.C.

CHECK ONE: [X] CASE DISPOSED [ ] NON-FINAL DISPOSITION