

At a Term of the Civil Court of the
City of New York, New York County,
held on August 16, 2017.

**CIVIL COURT
OF THE
CITY OF NEW YORK**
OCT 02 2017
**ENTERED
NEW YORK COUNTY**

PRESENT: HON. JOHN J. KELLEY, J.C.C.

**CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK**

LEASE FINANCE GROUP LLC.,

Plaintiff,

-against-

STEPHANIE DRONEY,

Defendant.

Index No. 019829/11

DECISION AND ORDER

The plaintiff brings this action against defendant to recover \$1,997.50 pursuant to a personal guaranty of an equipment finance lease agreement. The plaintiff claims that the defendant personally guaranteed payment of a finance lease that it had entered with Shear Texture (“Lessee”), a hair salon, located in West Seneca, New York. The plaintiff seeks to recover the balance of the lease, plus attorney’s fees, from the defendant, as a guarantor, because the lessee defaulted.¹ The plaintiff now moves for summary judgment and for dismissal of the defendant’s affirmative defenses.

The defendant opposes the motion. Defendant’s counsel claims that the plaintiff has failed to make a prima facie showing of entitlement to summary judgment. The Court agrees. The plaintiff’s motion relies on the affidavit of Lina Kravic, its lease originations director and custodian of records. This Court already has found that Ms. Kravic’s substantively-identical affidavit is insufficient to establish the plaintiff’s prima facie entitlement to summary judgment (*see Northern Leasing v. Young*, 2017 NY Slip Op 50975 [U] at *2). It is also improper for the plaintiff to submit a new affidavit by way of reply (*see Ritt v. Lenox Hill Hosp.*, 182 AD2d 560, 562 [1st Dept 1992]). Reply papers are meant to respond to the non-movant’s arguments. They cannot be used to remedy deficiencies in the original motion papers (*see Migdol v. City of New York*, 291 AD2d 201 [1st Dept 2002]; *Lumbermens Mutual Casualty Company v. Morse Shoe Company*, 218 AD2d 624, 625 [1st Dept 1995]; *Ritt*, 182 Ad2d at 562).

¹ Although the lease and guaranty were executed in Buffalo, the case is before this Court because the lease agreement contains a forum selection clause that requires all disputes between the parties to be heard in New York County.

The motion for summary judgment is denied.

Dated: September 25, 2017

ENTER

A handwritten signature in black ink, appearing to read "John J. Kelley". The signature is fluid and cursive, with a long horizontal stroke at the end.

HON. JOHN J. KELLEY, J.C.C.

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