

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D24808  
W/kmg

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Submitted - October 7, 2009

REINALDO E. RIVERA, J.P.  
HOWARD MILLER  
RUTH C. BALKIN  
JOHN M. LEVENTHAL  
L. PRISCILLA HALL, JJ.

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2008-09884

DECISION & ORDER

Emmanuel Okeke, appellant,  
v Waldrine Ewool, et al., defendants.

(Index No. 103116/07)

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Nnebe & Nnebe, Brooklyn, N.Y. (O. Valentine Nnebe of counsel), for appellant.

In an action, inter alia, to recover damages for unlawful eviction, conversion, and intentional infliction of emotional distress, the plaintiff appeals from an order of the Supreme Court, Richmond County (McMahon, J.), dated September 23, 2008, which denied his unopposed motion pursuant to CPLR 3215 for leave to enter judgment against the defendants on the issue of liability upon their defaults in appearing or answering the complaint and to set the matter down for an inquest on the issue of damages.

ORDERED that the order is reversed, on the law, with costs payable by the defendants, and the plaintiff's motion for leave to enter judgment against the defendants on the issue of liability upon their defaults in appearing or answering the complaint and to set the matter down for an inquest on the issue of damages is granted.

In support of his unopposed motion pursuant to CPLR 3215, the plaintiff submitted proof of service of copies of the summons and the complaint upon the defendants, of the facts constituting the claim, and of the defendants' defaults in appearing or answering the complaint (*see* CPLR 3215[f]; *Levine v Forgotson's Cent. Auto & Elec., Inc.*, 41 AD3d 552, 553; *599 Ralph Ave. Dev., LLC v 799 Sterling Inc.*, 34 AD3d 726; *Lipp v Port Auth. of N.Y. & N.J.*, 34 AD3d 649). There is no evidence in the record that the defendants made timely appearances or answered the

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complaint. Accordingly, the plaintiff's unopposed motion for leave to enter judgment against the defendants on the issue of liability upon their defaults in appearing or answering the complaint and to set the matter down for an inquest on the issue of damages should have been granted.

RIVERA, J.P., MILLER, BALKIN, LEVENTHAL and HALL, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court