

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

D33006
G/kmb

_____AD3d_____

Submitted - November 9, 2011

WILLIAM F. MASTRO, J.P.
RUTH C. BALKIN
CHERYL E. CHAMBERS
SANDRA L. SGROI, JJ.

2011-02808

DECISION & ORDER

Mildred Anderson, appellant, v Ana M. Vasquez,
respondent.

(Index No. 8618/10)

Ira S. Newman, Great Neck, N.Y. (Andrew S. Holland of counsel), for appellant.

In an action to recover damages for breach of certain loan agreements, the plaintiff appeals from an order of the Supreme Court, Nassau County (Murphy, J.), entered February 9, 2011, which denied her unopposed motion pursuant to CPLR 3215(f) for leave to enter a judgment in the principal sum of \$41,500 against the defendant, upon the defendant's default in appearing or answering the complaint.

ORDERED that the order is reversed, on the law, with costs, and the plaintiff's motion for leave to enter a judgment in the principal sum of \$41,500 against the defendant is granted.

In support of her unopposed motion pursuant to CPLR 3215(f) for leave to enter a judgment in the principal sum of \$41,500 against the defendant, upon the defendant's default in appearing or answering the complaint, the plaintiff presented proof that was sufficient to establish that she had a viable cause of action against the defendant (*see Woodson v Mendon Leasing Corp.*, 100 NY2d 62, 71). The plaintiff presented, among other things, her affidavit attesting to her claim that she made a series of loans to the defendant, that the defendant promised to repay the loans, that the defendant failed to do so, and proof of the amount due on the loans (*see Golding v Gottesman*, 41 AD3d 430; *Langenbach v Renna*, 255 AD2d 366; *Wallach v Dryfoos*, 140 App Div 438, 440). Furthermore, the plaintiff submitted a process server's affidavit attesting to service of the summons and complaint on the defendant, and her attorney's affidavit regarding the defendant's default in

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appearing or answering the complaint (*see* CPLR 3215[f]). Accordingly, the plaintiff's unopposed motion for leave to enter a default judgment in the principal sum of \$41,500 against the defendant should have been granted (*see Hermitage Ins. Co. v Trance Nite Club, Inc.*, 40 AD3d 1032; *Zino v Joab Taxi, Inc.*, 20 AD3d 521).

MASTRO, J.P., BALKIN, CHAMBERS and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court