

<b>Martinez v Da Hua House, Inc.</b>
2019 NY Slip Op 30890(U)
March 29, 2019
Supreme Court, New York County
Docket Number: 150997/2018
Judge: Louis L. Nock
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. LOUIS L. NOCK PART IAS MOTION 38EFM**

*Justice*

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**INDEX NO. 150997/2018**

JOEL MARTINEZ,

**MOTION DATE 10/25/2018**

Plaintiff,

**MOTION SEQ. NO. 001**

- v -

DA HUA HOUSE, INC., PAUL CONSTRUCTION &  
MAINTENANCE CORP., GOPAUL PRASHAD, Individually  
And Doing Business as PAUL CONSTRUCTION &  
MAINTENANCE CORP.

**DECISION AND ORDER**

Defendants.

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Upon e-filed documents numbered 1-15, it is ordered that plaintiff's motion for a default judgment against the defendants is granted, on the issue of liability, in accordance with the following memorandum.

The action is one for personal injury, alleging that plaintiff was injured at a construction site regarding which defendant Da Hua House, Inc., was the general contractor and the remaining defendants were in control. The complaint alleges that plaintiff's injuries were caused by the negligence of the defendants in ensuring the safety of the construction site. Affidavits of service of process and of the instant motion for a default judgment are regular on their faces, and on file with the court. No answer or other appearance has been interposed by any of the defendants; nor have they opposed the motion.

The complaint seeks an ultimate award for damages "in a sum that exceeds the jurisdictional limits of all lower courts . . . together with the costs and disbursements of this action."

The motion for a default judgment is granted, on default and without opposition, as to liability of all defendants. An inquest on the issue of damages must now go forward.

Accordingly, it is

ORDERED that plaintiff's motion for a default judgment against the defendants is granted on the issue of liability of the defendants in respect of the injuries alleged in the complaint in this action; and it is further

ORDERED that a Judicial Hearing Officer (JHO) or Special Referee shall be designated to hear and determine the issue of the quantum of damages which plaintiff can prove in respect of the injuries alleged in the complaint in this action; and it is further

ORDERED that the powers of the JHO/Special Referee shall not be limited beyond the limitations set forth in the CPLR; and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk (Room 119, 646-386-3028 or [spref@nycourts.gov](mailto:spref@nycourts.gov)) for placement at the earliest possible date upon the calendar of the Special Referees' Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this court at [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh) at the "References" link, shall assign this matter at the initial appearance to an available JHO/Special Referee to determine as specified above; and it is further

ORDERED that counsel for the plaintiff shall immediately attempt to consult the defendants, and counsel for the plaintiff shall, within 15 days from the date of this Order, submit to the Special Referee Clerk by fax (212-401-9186) or e-mail an Information Sheet (accessible at the "References" link on the court's website) containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise counsel for the plaintiff, and the defendants, of the date fixed for the appearance of the matter upon the calendar of the Special Referees' Part; and it is further

ORDERED that the parties shall appear for the reference hearing, including with all witnesses and evidence they seek to present, and shall be ready to proceed with the hearing, on the date fixed by the Special Referee Clerk for the initial appearance in the Special Referees' Part, subject only to any adjournment that may be authorized by the Special Referees' Part in accordance with the Rules of that Part; and it is further

ORDERED that, except as otherwise directed by the assigned JHO/Special Referee for good cause shown, the trial of the issues specified above shall proceed from day to day until completion and counsel for the plaintiff, and the defendants, must arrange their schedules and those of their witnesses accordingly, it is further

ORDERED that counsel for the plaintiff, and the defendants, shall file memoranda or other documents directed to the assigned JHO/Special Referee in accordance with the Uniform Rules of the Judicial Hearing Officers and the Special Referees (available at the "References" link on the court's website) by filing same with the New York State Courts Electronic Filing System (see Rule 2 of the Uniform Rules); and it is further

ORDERED that any determination of damages rendered by the JHO/Special Referee with a positive balance shall be made against the defendant, jointly and severally, and that plaintiff shall have execution therefor.

This shall constitute the decision and order of the court.

ENTER:

*Louis L. Nock*

3/29/2019  
DATE

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LOUIS L. NOCK, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER		
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE