

Berkley Regional Ins. Co. v 40-15 27th St. LLC
2021 NY Slip Op 30344(U)
February 5, 2021
Supreme Court, New York County
Docket Number: 651799/2019
Judge: Andrew Borrok
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SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: HON. ANDREW BORROK **PART** **IAS MOTION 53EFM**

Justice

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BERKLEY REGIONAL INSURANCE COMPANY, BERKLEY
INSURANCE COMPANY,

Plaintiff,

- v -

40-15 27TH STREET LLC,COSTAS KATSIFAS,
CHRISTOPHER VARDAROS, 38-30 28TH STREET,
LLC,CHRISTINA KATSIFAS, DESPINA VLACHOS

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 003) 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177

were read on this motion to/for

JUDGMENT - DEFAULT

Berkley Regional Insurance Company and Berkley Insurance Company's (collectively, the **Plaintiffs**) commenced this action on March 27, 2019. Despina Vlachos a/k/a Despina Vardaros and the other defendants filed an answer on May 8, 2019. Pursuant to decision and order, dated January 27, 2020, the court granted summary judgment against 40-15 27th Street, LLC, 38-30 28th Street, LLC, Costas Katsifas, and Christopher Vardaros (NYSCEF Doc. No. 128). Summary judgment was denied as against Christina Katsifas and Ms. Vlachos because there remained an issue of fact as to whether a certain notice of termination (the **Notice of Termination**) was properly served on the Plaintiffs (*id.* at 10).

Pursuant to a So-Ordered Stipulation dated July 22, 2020, Ms. Vlachos was to respond to all document demands and interrogatories on or before September 16, 2020 (NYSCEF Doc. No.

143). On August 10, 2020, the Plaintiffs served Ms. Vlachos with a Notice of Discovery and Inspection but she did not respond (NYSCEF Doc. No. 167, ¶ 10).

On August 26, 2020, the defendants' counsel filed a motion to withdraw that was not opposed by Ms. Vlachos (*see* Seq. No. 002). Pursuant to a decision and order dated September 23, 2020, the defendants' counsel was relieved and he was directed to forward a notice directing his former clients, including Ms. Vlachos, to appoint a substitute attorney within 30 days of the mailing of that notice, otherwise the individual defendant would notify the part clerk within 30 days if she wished to represent herself (NYSCEF Doc. No. 157).

Ms. Vlachos failed to appear either pro se or by counsel at the subsequent status conferences on November 9, 2020 and December 3, 2020 (NYSCEF Doc. Nos. 161, 163). As a result, the court granted the Plaintiffs' permission to move for all appropriate relief against Ms. Vlachos (*id.*). The Plaintiffs filed the instant motion on January 4, 2021. Ms. Vlachos did not respond.

Accordingly, the Plaintiffs' motion to strike the answer of Ms. Vlachos and for default judgment pursuant to CPLR § 3215 is granted as unopposed. There is an alleged default, affidavit of merit, proper service, and Ms. Vlachos has received at least 5 days notice of the time and place of the motion for default judgment.

Accordingly, it is

ORDERED that the Plaintiffs' motion to strike and motion for default judgment is granted as unopposed; and it is further

ORDERED that it is deemed resolved that the Notice of Termination was not properly served on Plaintiffs by Ms. Vlachos; and it is further

ORDERED that Ms. Vlachos is hereby prohibited from further supporting her claims regarding the Notice of Termination; and it is further

ORDERED that the answer and affirmative defenses of Ms. Vlachos are hereby struck; and is further

ORDERED that the Clerk is directed to enter judgment in favor of Berkley Regional Insurance Company and Berkley Insurance Company and against Despina Vlachos a/k/a Despina Vardaros for contractual indemnification in the amount of \$2,056,930.50, plus statutory interest of 9% from the date of each bond loss payment until the date of entry of judgment, plus statutory interest of 9% per annum from the date of entry of judgment, plus costs and disbursements as allocated by the Clerk. The plaintiff shall have execution thereof; and it is further

ORDERED that Ms. Vlachos is directed to deposit collateral in the amount of \$540,057.29 with Berkley Regional Insurance Company within thirty (30) days of the date of the decision and order.

2/5/2021

DATE

CHECK ONE:

☐

CASE DISPOSED

☒

GRANTED

☐

DENIED

APPLICATION:

☐

SETTLE ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☒

NON-FINAL DISPOSITION

☐

GRANTED IN PART

☐

OTHER

☐

SUBMIT ORDER

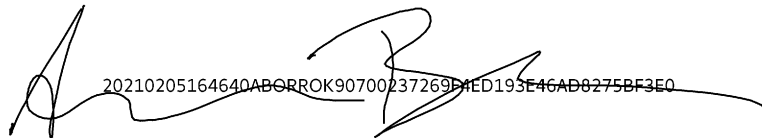
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FIDUCIARY APPOINTMENT

☐

REFERENCE

20210205164640ABORROK90700237269DIED193E46AD8275BF3E0



ANDREW BORROK, J.S.C.