

**Dyckman Realty Assoc., LP v Gonzalez**

2025 NY Slip Op 31517(U)

April 21, 2025

Supreme Court, New York County

Docket Number: Index No. 653628/2024

Judge: Nicholas W. Moyne

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. NICHOLAS W. MOYNE PART 41M

Justice

-----X

DYCKMAN REALTY ASSOCIATES, LP,

Plaintiff,

- v -

ISABEL GONZALEZ, BELLISIMADOLL HAIR SPECIALISTS
LLC

Defendant.

-----X

INDEX NO. 653628/2024

MOTION DATE 12/19/2024

MOTION SEQ. NO. 001

DECISION + ORDER ON
MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 8, 9, 10, 11, 12, 13,
14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24

were read on this motion to/for JUDGMENT - DEFAULT

Plaintiff, DYCKMAN REALTY ASSOCIATES, LP, commenced the underlying action
to recover for damages allegedly sustained as a result of a breach of a commercial lease by
Defendants, ISABEL GONZALEZ, as Guarantor ("Guarantor"), and BELLISIMADOLL HAIR
SPECIALISTS LLC, as Tenant ("Tenant"), alleging claims for breach of contract/guaranty and
attorney's fees. Specifically, Plaintiff seeks to recover amounts owed (1) on the first cause of
action, against Tenant, for rent, additional rent, and other sums and charges due pursuant to the
Lease, amounting to \$174,403.66 as of July 1, 2024, plus such unpaid sums as continue to accrue
under the Lease; (2) on the second cause of action, against Guarantor, for rent, additional rent,
and other sums and charges due pursuant to the Guaranty, amounting to \$174,403.66 as of July
1, 2024, plus such unpaid sums as continue to accrue under the Lease and the Guaranty; and (3)
on the third cause of action, against Defendants, jointly and severally, for attorney's fees, costs
and expenses in an amount to be determined at an inquest (NYSCEF Doc. Nos. 1, 8, 16).

Plaintiff now moves for an order, pursuant to CPLR § 3215, directing entry of a default judgment against Defendants in the amount of \$174,403.66, plus interest, costs, disbursements, and attorney's fees.

Plaintiff is the Owner of the subject premises located at 174 Dyckman Street, New York, New York ("Premises") and consisting of a street level store and basement below. On or about June 6, 2019, Tenant and Plaintiff, as landlord, entered into a commercial lease agreement ("Lease") for the Premises, with Tenant leasing the Premises for a ten (10) year term set to commence on June 1, 2019, and expire on May 31, 2029 (NYSCEF Doc. No. 14). Additionally, on or around June 6, 2019, Guarantor executed a written guaranty agreement ("Guaranty"), personally guaranteeing the lease between Plaintiff and Tenant (NYSCEF Doc. No. 15).

Plaintiff asserts that in or around June 2024 the Tenant, in breach of the Lease, vacated the Premises without giving prior notice and while in arrears in paying fixed rent, additional rent and other sums payable under the Lease as of June 2020. Accordingly, Plaintiff further asserts that Defendants have failed to pay rent and additional rent, and other sums and charges due, in violation of the terms of the Lease and Guaranty. Plaintiff now seeks to recover from Defendants the amount of \$174,403.66, consisting of the unpaid rent and additional rent which has accrued and/or become due and payable under the terms of the Lease and Guaranty for the period of June 1, 2020, through the date of July 1, 2024.

On August 8, 2024, Plaintiff, in accordance with the method of service proscribed by Limited Liability Company Law § 303, served the Defendant BELLISIMADOLL HAIR SPECIALISTS LLC with the summons and complaint for this action (NYSCEF Doc. No. 2). On October 3, 2024, Plaintiff, in accordance with the method of service proscribed by CPLR § 308, served the Defendant ISABEL GONZALEZ with the summons and complaint for this action

(NYSCEF Doc. No. 4). The applicable time period in which Defendants ought to have answered or otherwise appeared, has passed and Defendants have failed to do so. On December 19, 2024, within the statutory one-year period following the Defendants' default in responding to the complaint, Plaintiff filed its application seeking entry of a default judgment (NYSCEF Doc. No. 8; *see* CPLR § 3215 [a]). Plaintiff has also provided proof of additional notice, as required by CPLR § 3215 (g), and has provided an affidavit of non-military service for Defendant ISABEL GONZALEZ (NYSCEF Doc. Nos. 17, 21, 22).

Additionally, as required by CPLR § 3215 (f), Plaintiff has provided proof of service of the summons and complaint, the facts supporting each of its claims, the default, and the amount due, through the complaint and the affidavit with supporting exhibits of Joseph J. Jemal, employee of Plaintiff's managing agent (ISJ Management Corp.) and a party with personal knowledge (NYSCEF Doc. No. 10; *see Bigio v Gooding*, 213 AD3d 480, 481 [1st Dept 2023] ["To demonstrate facts constituting the claim, the movant need only proffer proof sufficient to enable a court to determine that a viable cause of action exists"]). As plaintiff has demonstrated compliance with the statutory requirements of CPLR § 3215 *et. seq.*, the motion for entry of a default judgment is granted.

Accordingly, it is hereby

ORDERED that the motion by Plaintiff, DYCKMAN REALTY ASSOCIATES, LP, is GRANTED; and it is further

ORDERED and ADJUDGED that Plaintiff, DYCKMAN REALTY ASSOCIATES, LP, their legal representative having an address of: Att. William Ferrall, Smith & Krantz, LLP, 1123 Broadway, Suite 317, New York, New York 10010, is granted a judgment against Defendants, BELLISIMADOLL HAIR SPECIALISTS LLC and ISABEL GONZALEZ, upon information

and belief having a last known address of 3720 Bronx Boulevard, Fl. 2, Bronx, New York 10467, in the amount of \$174,403.66, the amount of unpaid rent, additional rent, and other sums, charges, and damages due under the Lease and Guaranty; and it is further

ORDERED and ADJUDGED that the Clerk of the Court is directed to enter judgment in favor of Plaintiff and against Defendants, in the amount of \$174,403.66, plus interest at the rate of \_\_\_\_ % from \_\_\_\_\_ to the date of this order, as calculated by the Clerk in the amount of \$ \_\_\_\_\_, together with costs and disbursements in the amount of \$ \_\_\_\_\_ as taxed by the Clerk upon the submission of an appropriate bill of costs, for the total judgment amount of \$ \_\_\_\_\_, and that the plaintiff have execution thereof; and it is further

ORDERED and ADJUDGED that Plaintiff is entitled to recover from Defendants their reasonable attorney's fees in bringing this action and an assessment of the amount for which Plaintiff may be entitled is to be determined at an inquest held before this court; and it is further

ORDERED that counsel for the Plaintiff shall contact the court at SFC-Part41@nycourts.gov and SFC-Part41-Clerk@nycourts.gov within twenty (20) days of entry of this order to coordinate on the scheduling of the inquest; and it is further

ORDERED that affidavits and exhibits supporting Plaintiff's request for attorneys' fees and/or costs shall be submitted via NYSCEF at least seven (7) days prior to the inquest; and it is further

ORDERED that Plaintiff shall file a Note of Issue on or before the date for which the inquest is scheduled; and it is further

ORDERED that failure to contact the court to schedule the inquest within said twenty (20) day period may result in the dismissal of the Plaintiff's request to recover such fees; and it is further

ORDERED that this decision and order is without prejudice to Plaintiff's right to commence a new action, under a separate index number, for any rents which may become due after the date of this order.

This constitutes the decision, order and judgment of the court.

4/21/2025  
DATE

\_\_\_\_\_  
NICHOLAS W. MOYNE, J.S.C.

DATE			CLERK
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/> GRANTED IN PART
		<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