

New York City Hous. Auth. v Grini's Harlem Grill Inc.
2025 NY Slip Op 33541(U)
September 22, 2025
Supreme Court, New York County
Docket Number: Index No. 451430/2020
Judge: Emily Morales-Minerva
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. EMILY MORALES-MINERVA PART 42M

Justice

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NEW YORK CITY HOUSING AUTHORITY,

Plaintiff,

- v -

GRINI'S HARLEM GRILL INC., WILSON MONEGRO

Defendants.

-----X

INDEX NO. 451430/2020

MOTION DATE 09/12/2025

MOTION SEQ. NO. 006

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 006) 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155

were read on this motion to/for VACATE - DECISION/ORDER/JUDGMENT/AWARD.

APPEARANCES:

Simon Meyrowitz and Meyrowitz, P.C., New York, NY (Joshua A. Brook, Esq. of counsel), for plaintiff-movant.

Joseph A. Altman, P.C., Fleetwood, NY (Joseph A. Altman, Esq., of counsel), for defendants.

HON. EMILY MORALES-MINERVA, J.S.C.

By decision and order, dated September 10, 2025, this Court dismissed this action, pending for five years, upon plaintiff-movant's failure to (a) appear at a time-certain scheduled call of the calendar for an in-person conference, and to (b) contact the Court with an excuse or request for an adjournment. Plaintiff timely moved, by order to show cause (motion seq. no. 06) for an order vacating the dismissal (see CPLR § 5015 [governing relief from judgment or order]).

Defendants appear, admit service of the order to show cause, and submit written opposition to the motion.

"The court which rendered a[n] . . . order may relieve a party from it upon such terms as may be just, on motion of any interested person with such notice as the court may direct, upon the ground of: excusable default" (CPLR § 5015 [a][1]). Further, "[n]otwithstanding the preference for deciding cases on the merits, this preference will not justify vacating a default judgment where the moving party has failed to satisfy its burden of establishing a reasonable excuse for the default or a meritorious case" (Liparulo v New York City Health & Hosps. Corp., 193 AD3d 593, 594 [1st Dept 2021], lv dismissed 37 NY3d 1088 [2021]; see also U.S. Bank N.A. v Zhu, 238 AD3d 628, 629 [1st Dept 2025]; Liu v Chang, 227 AD3d 410, 411 [1st Dept 2024]).

Neither "neglect" nor "incompetence by counsel" serve as a basis for setting aside a default, pursuant to CPLR § 5015 (Liu, 227 AD3d at 410-411). "A court has discretion to accept law office failure as a reasonable excuse where the claim is supported by a detailed and credible explanation of the default" (Agostinacchio v Jofaz Transportation, Inc., 238 AD3d 691, 693 [2d Dept 2025] [internal citations and quotations omitted]). "However, law office failure should not be excused . . . where allegations of law office failure are vague, conclusory, and

unsubstantiated" (id. [internal citations and quotations omitted]).

Here, plaintiff-movant explains the default on having an in-person appearance before the New York City Civil Court, New York County, prior to the scheduled in-person appearance before this Court on September 10, 2024, at 12:00 P.M. (see New York State Court Electronic Filing System [NYSCEF] Doc. No. 146, Affirmation in Support of Order to Show Cause, dated September 12, 2025). That appearance went longer than expected due to the need for an allocution of a self-represented litigant and, therefore, counsel's appearance in that action overlapped with counsel's in-person appearance before this Court for a prolonged period (see id.).

While counsel failed to contact this Court to explain the circumstance, the Court recognizes that certain matters cannot be so easily managed when counsel is on the record in another courtroom. Therefore, in the exercise of discretion, the Court finds plaintiff-movant had a reasonable excuse for failing to appear.

Finally, in opposition to this motion, defendants raise no substantive issue concerning the merits of this commercial landlord-tenant matter in which plaintiff-movant seeks payment of arrears (see NYSCEF Doc. No. 151, Affirmation in Opposition, dated September 21, 2025).

Accordingly, it is hereby

ORDERED that plaintiff-movant's motion, by order to show cause (motion seq. no. 06), is granted; it is further

ORDERED that this Court's order of dismissal, dated September 10, 2025, is vacated, and the matter is restored to the calendar; it is further

ORDERED that plaintiff-movant shall serve defendants with this order and notice of entry within ten days of such entry, and shall file with the Court proof of the same; it is further

ORDERED that the parties shall appear before this Court for a pre-trial conference in Part 42M, Courtroom 574, on December 08, 2025 at 11:00 A.M; and it is further

ORDERED that the Clerk shall mark the file accordingly.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

Emily Morales-Minerva

9/22/2025
DATE

EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE