

**Fora Fin. Asset Securitization, LLC v Hibler Bldg.
Co., LLC**

2025 NY Slip Op 35463(U)

January 28, 2025

Supreme Court, Nassau County

Docket Number: Index No. 606568/2020

Judge: Denise L. Sher

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This opinion is uncorrected and not selected for official publication.

SHORT FORM ORDER

SUPREME COURT OF THE STATE OF NEW YORK

PRESENT: HON. DENISE L. SHER
Supreme Court Justice

FORA FINANCIAL ASSET SECURITIZATION, LLC,

Plaintiff,

- against -

HIBLER BUILDING COMPANY, LLC d/b/a
HIBLER BUILDING COMPANY and
JESSE CHRISTOPHER HIBLER,

Defendants.

TRIAL/IAS PART 27
NASSAU COUNTY

Index No.: 606568/2020
Motion Seq. No.: 01
Motion Date: 10/08/2024
XXX

The following papers have been read on this motion:

	Papers Numbered
Notice of Motion, Affirmation and Exhibits	<u>1</u>

Upon the foregoing papers, it is ordered that the motion is decided as follows:

Plaintiff moves, pursuant to CPLR § 3215, for an order granting a default judgment against defendants. No opposition was submitted to the motion.

In support of the motion, counsel for plaintiff asserts, in pertinent part, that, "[t]he within action was commenced as a result of a breach of a Purchase and Sale of Future Receivables Agreement (Revenue Advance) (the 'Agreement') executed by defendant HIBLER BUILDING COMPANY, LLC d/b/a HIBLER BUILDING COMPANY ('HBC') as Seller, and JESSE CHRISTOPHER HIBLER ('HIBLER') as the guarantor.... An action was commenced in this Court by service of a Summons and Complaint dated June 25, 2020.... Service was effectuated on defendant JESSE CHRISTOPHER HIBLER,

via personal service on July 18, 2020. Service was effectuated upon

defendant HIBLER BUILDING COMPANY, LLC d/b/a HIBLER BUILDING COMPANY,

via service upon Jesse Hibler, an authorized representative on September 17, 2020....

On or about October 15, 2020, defendant's (*sic*) counsel communicated with plaintiff's attorney desirous of settling plaintiff's claims. On or about October 15, 2020, plaintiff and defendant (*sic*)

entered into a Stipulation of Settlement, wherein plaintiff and defendant (*sic*) agreed to settle plaintiff's claims for a total payment of \$50,000.00 in full satisfaction ('Settlement Amount').

Plaintiff's counsel drafted the Stipulation of Settlement and sent it to the defendants' counsel.

The defendants failed to sign the Stipulation of Settlement.... Defendants, while failing to sign and return the signed and notarized Stipulation of Settlement, complied with the terms therein

by proceeding to make payments. In fact, Defendants made six (6) payments totaling \$14,782.60 towards the Settlement Amount, before defaulting.... In or about March 2021,

defendants stopped making payments. Plaintiff's attorneys sent electronic reminders to

the defendants' counsel reminding them of the payments due. On or about September 8, 2021,

defendant's (*sic*) counsel stated that they no longer represent the defendants and to contact them directly.... On or about March 31, 2022, defendants communicated with plaintiff's attorney

seeking to renegotiate and Amend the Stipulation of Settlement. On or about April 22, 2022,

plaintiff and defendants entered into an Amended Stipulation of Settlement

('Amended Stipulation of Settlement') wherein plaintiff and defendants agreed to settle

plaintiff's claims for a total payment of \$35,217.40 in full satisfaction

('Amended Settlement Amount'). Plaintiff's counsel drafted the Amended Stipulation of

Settlement and sent it to the defendants for signature.... Defendants made payments

totaling \$12,300.00 towards the Amended Settlement Amount.... In or about September 2023,

defendants stopped making payments. Plaintiff's attorneys sent electronic reminders to the defendants reminding them of the payments due. Defendants did not remit payment. On June 4, 2024, Pursuant (*sic*) to the terms of the Amended Stipulation of Settlement, defendants were served with a Notice of Default. The notice was served via electronic and regular mail and provided defendants five (5) business days to cure the default....

Defendants have failed to cure the default and remains (*sic*) in default of the terms of the Amended Stipulation of Settlement. Defendant (*sic*) has not communicated with counsel for plaintiff. Pursuant to paragraph 1 of the Amended Stipulation of Settlement, Judgment may be entered against the Defendants, individually and jointly, in the principal sum of \$61,217.86 less any payments received, together with interest thereon at the rate of nine percent (9%) per annum from March 18, 2020, plus costs and \$5,000.00 attorney's fees.

Based on the foregoing, the outstanding balance owed by defendants is \$61,217.86, less payments made totaling \$27,082.60, leaving a balance owed of \$34,135.26.

Based upon the foregoing, it is respectfully requested that this Court grant leave to take a default judgment against the defendants HIBLER BUILDING COMPANY, LLC d/b/a HIBLER BUILDING COMPANY, and JESSE CHRISTOPHER HIBLER.

The Amended Stipulation of Settlement was filed on July 9, 2024, in order to move for Judgment. The court returned the document stating, 'Document is titled amended stipulation but the original is not on record'.... The original Stipulation of Settlement was not filed as defendants failed to sign the document, Your Affirmant is prepared to file the original Stipulation upon the court's directive." *See* Plaintiff's Affirmation in Support Exhibits A-J.

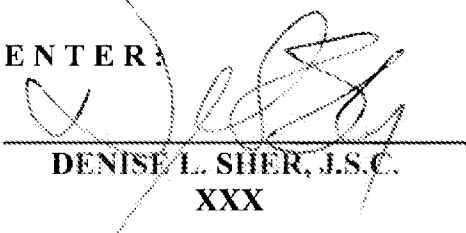
As previously indicated, no opposition was submitted to the motion.

Based upon the above, plaintiff's motion, pursuant to CPLR § 3215, for an order granting a default judgment against defendants, is hereby **GRANTED**.

Plaintiff is directed to submit judgment, to the clerk, against defendants, in the sum of \$34,135.26, plus interest thereon at the rate of nine percent (9%) per annum from March 18, 2020, plus costs and \$5,000.00 attorney's fees.

This constitutes the Decision and Order of this Court.

ENTER:


DENISE L. SHER, J.S.C.

XXX

ENTERED

Jan 30 2025

NASSAU COUNTY
COUNTY CLERK'S OFFICE

Dated: Mineola, New York
January 28, 2025