

Itria Ventures LLC v Nikolli

2026 NY Slip Op 30092(U)

January 9, 2026

Supreme Court, New York County

Docket Number: Index No. 652874/2022

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

ITRIA VENTURES LLC

Plaintiff,

- v -

ARDIAN NIKOLLI,

Defendant.

-----X

INDEX NO. 652874/2022

MOTION DATE 08/07/2025

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

were read on this motion to/for JUDGMENT - DEFAULT.

Upon the foregoing documents, it is

Plaintiff, Itria Ventures LLC, commenced the underlying action against defendant, Ardian Nikolli, to recover for amounts allegedly owed pursuant to an agreement involving the purchase of future receivables and alleging claims of breach of contract, breach of the implied covenant of good faith and fair dealing, unjust enrichment/quantum meruit, breach of personal guaranty, and enforcement of a security interest in collateral. Plaintiff now moves for an order, pursuant to CPLR § 3215, granting and directing entry of a default judgment against Nikolli, individually and doing business as Ardian Nikolli, a sole proprietorship, in the amount of \$14,082.83, the outstanding amount owed plus fees. Although unopposed, for the reasons set forth below, the motion is denied, and the action is dismissed.

On August 11, 2022, plaintiff commenced the underlying action by filing of the summons and complaint (NYSCEF Doc. No. 1). Thereafter, on August 18, 2022, the plaintiff personally served the defendant in accordance with method of service proscribed by CPLR § 308(1) (NYSCEF Doc. No. 2). Pursuant to CPLR § 320(a), the applicable thirty-day time period in

which defendant ought to have answered or otherwise appeared has passed and the defendant has failed to do so. On August 7, 2025, plaintiff filed an application seeking entry of a default judgment against the defendant. However, the application is untimely as it was filed outside the statutorily proscribed one-year period in which plaintiff was required to move.

As set forth under CPLR § 3215(c), “[i]f the plaintiff fails to take proceedings for the entry of judgment within one year after the default, the court shall not enter judgment but shall dismiss the complaint as abandoned, without costs, upon its own initiative or on motion, unless sufficient cause is shown why the complaint should not be dismissed”. The CPLR § 3215(c) language requiring dismissal is not discretionary, but mandatory, with the statute excepting cases where sufficient cause has been shown (*Deutsche Bank Natl. Tr. Co. v Cruz*, 173 AD3d 610, 610 [1st Dept 2019]). To establish sufficient cause, the plaintiff is required to set forth both a reasonable excuse for the delay and demonstrate that it has a meritorious cause of action (*Selective Auto Ins. Co. of New Jersey v Nesbitt*, 161 AD3d 560 [1st Dept 2018]; *HSBC Bank USA, N.A. v Slone*, 174 AD3d 866, 867 [2d Dept 2019]). The determination of whether an excuse is reasonable in any given instance is committed to the sound discretion of the motion court (*Pipinias v J. Sackaris & Sons, Inc.*, 116 AD3d 749, 752 [2d Dept 2014]).

As the plaintiff’s motion for a default judgment was filed approximately three years after the defendant’s failure to answer the complaint or appear in the action and two years after the expiration of the applicable one-year period, plaintiff is required to set forth both a reasonable excuse for the delay and demonstrate a meritorious cause of action. Here, plaintiff alleges that it “has a reasonable excuse for the delay in that following commencement of this action, Plaintiff sought to reduce litigation costs and consensually resolve the matter by attempting to communicate with Defendant to resolve the matter. During the course of such efforts, Plaintiff

refrained from taking further legal action” (NYSCEF Doc. No. 20 at 5; NYSCEF Doc. No. 9 at 4; 5). However, plaintiff has not shown that, within the one year-period following the defendant’s default, it took any proceedings related to seeking entry of a default judgment (see *938 St. Nicholas Ave. Lender LLC v 936-938 Cliffcrest Hous. Dev. Fund Corp.*, 241 AD3d 1134, 1135 [1st Dept 2025]), nor has plaintiff address the two-year period thereafter (see *Cabral v Mueses*, 234 AD3d 475, 476 [1st Dept 2025]). The claim that plaintiff sought to “consensually resolve the matter by attempting to communicate with the defendant” is insufficient to demonstrate a reasonable excuse for the delay as it is entirely conclusory and unsubstantiated by the record (*Seide v Calderon*, 126 AD3d 417 [1st Dept 2015]; *c.f. Citimortgage, Inc. v Sahai*, 172 AD3d 552 [1st Dept 2019]). As plaintiff failed to establish a reasonable excuse for the delay, plaintiff “fails to satisfy the one exception to the otherwise mandatory language of CPLR 3215(c) — that is, that he had ‘sufficient cause’ for the delay” (*Vargas v Mavino Realty Co., Inc.*, 243 NYS3d 410, 411 [1st Dept 2025]). Thus, the motion must be denied, and the above-entitled action must be dismissed (*U.S. Bank N.A. as Tr. for Greenpoint Mtge. Funding Tr. Mtge. Pass-Through Certificates, Series 2007-AR1 v Nunez*, 190 AD3d 660, 661 [1st Dept 2021] [“where a plaintiff fails to move for a default judgment within a year of the defendant's default in answering or appearing, dismissal of the action is required, either upon motion or sua sponte”]).

Accordingly, it is hereby

ORDERED that the motion by plaintiff, Itria Ventures LLC, is DENIED in its entirety; and it is further

ORDERED that the above-entitled action and complaint are dismissed pursuant to CPLR § 3215(c), without costs and disbursements; and it is further

ORDERED that plaintiff, Itria Ventures LLC, serve a copy of this order with notice of its entry on defendant and on the Office of the County Clerk, who shall enter judgment accordingly; and it is further

ORDERED that such service upon the County Clerk shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website).

This constitutes the decision and order of the court.



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1/9/2026
DATE

NICHOLAS W. MOYNE, 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