

Hertz Vehs., LLC v 999 Coney Is. Enters., Inc.
2026 NY Slip Op 31289(U)
March 17, 2026
Supreme Court, New York County
Docket Number: Index No. 161068/2024
Judge: Emily Morales-Minerva
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 42M

-----X

HERTZ VEHICLES, LLC, AND ALL OF ITS AFFILIATES
AND SUBSIDIARIES, INCLUDING BUT NOT LIMITED TO
THE HERTZ CORPORATION AND HERTZ CO.,

Plaintiff,

- v -

999 CONEY ISLAND ENTERPRISES, INC., ACTIVE LIFE
CHIROPRACTIC, P.C., ATLANTIC MEDICAL &
DIAGNOSTIC, P.C., BANAY PHYSICAL THERAPY,
P.C., BIG APPLE DELIVERY SUPPLY CORP., FRESH
POND PHARMACY, INC., GOAL PHYSICAL THERAPY,
P.C., GRANDVIEW SUPPLY, INC., HORIZON MEDICAL,
P.C., JULES FRANCOIS PARISIEN, M.D., METROCARE
MEDICAL, P.C., MOUNT OLYMPUS IMAGING,
LLC, QUEENS MEDICAL PROFESSIONAL, P.C., ROMAN
VAYNSHTEYN CHIROPRACTIC, P.C., SPECTRUM
DIAGNOSTIC IMAGING, P.C., SUNSET MEDICAL
SUPPLY, INC., TRIUMPH PHARMACY, LLC, DEMICHAEL
WOODS,

Defendants.

-----X

INDEX NO. 161068/2024
MOTION DATE 08/01/2025
MOTION SEQ. NO. 001

**AMENDED
DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 37, 38, 39, 40, 41,
42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 57, 58, 59, 60, 61, 62, 63, 64

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

Gallo Vitucci Klar LLP, New York, NY (Michael Edward Tomsky,
Esq., of counsel), for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this action seeking a declaratory judgment, plaintiff
HERTZ VEHICLES, and all of its affiliates and subsidiaries,
including but not limited to THE HERTZ CORPORATION AND HERTZ CO.
moves, by notice of motion (sequence number 001), pursuant to
CPLR § 3215, for an order granting it a default judgment against

defendants 999 CONEY ISLAND ENTERPRISES, INC., ACTIVE LIFE CHIROPRACTIC, P.C., ATLANTIC MEDICAL & DIAGNOSTIC, P.C., GRANDVIEW SUPPLY, INC., SPECTRUM DIAGNOSTIC IMAGING, P.C., SUNSET MEDICAL SUPPLY, P.C., TRIUMPH PHARMACY, LLC and DEMICHAEL WOODS.

When a defendant fails "to appear, plead or proceed to trial of an action reached and called for trial, or when the court orders a dismissal for any other neglect to proceed, the plaintiff may seek a default judgment against [the defendant]" (CPLR § 3215 [a]). To establish entitlement to a default judgment, plaintiff must file (1) proof it served defendant with the summons and complaint, and (2) "proof of the facts constituting the claim, the default, and the amount due . . . by affidavit made by the party" (see CPLR § 3215 [f]; see also Woodson v Mendon Leasing Corp., 100 NY2d 62, 70 [2003] [providing that "an applicant for a default judgment [must] file 'proof by affidavit made by the party of the facts constituting the claim'"]; 231st Riverdale LLC v 7 Star Home Furniture Inc., 198 AD3d 524, 525 [1st Dept 2021]; Feffer v Malpeso, 210 AD2d 60 [1st Dept 1994]).

Here, plaintiff demonstrates its entitlement to entry of a default judgment against defendants 999 CONEY ISLAND ENTERPRISES, INC., ACTIVE LIFE CHIROPRACTIC, P.C., ATLANTIC MEDICAL & DIAGNOSTIC, P.C., GRANDVIEW SUPPLY, INC., SPECTRUM

DIAGNOSTIC IMAGING, P.C., SUNSET MEDICAL SUPPLY, P.C., and TRIUMPH PHARMACY LLC. Plaintiff submits, among other things, the affirmations of service; the affirmations of additional mailing; the affirmation of Katie Jones-Goodlund, no-fault claims adjuster; the examination under oath appointment letters with corresponding affirmations of service; and an attorney affirmation (see CPLR § 3215 [f]; see also Licurgo-Villar v Samouha, 227 AD3d 619, 620 [1st Dept 2024]; Guzetti v City of New York, 32 AD3d 234 [1st Dept 2006]).

However, plaintiff has not demonstrated its entitlement to entry of a default judgment against defendant DEMICHAEL WOODS. The affidavit of service pursuant to CPLR § 308 (4) is defective.

Accordingly, it is hereby

ORDERED that plaintiff's motion (seq. no. 001) for a default judgment against defendants 999 CONEY ISLAND ENTERPRISES, INC., ACTIVE LIFE CHIROPRACTIC, P.C., ATLANTIC MEDICAL & DIAGNOSTIC, P.C., GRANDVIEW SUPPLY, INC., SPECTRUM DIAGNOSTIC IMAGING, P.C., SUNSET MEDICAL SUPPLY, P.C., and TRIUMPH PHARMACY LLC is granted; it is further

ORDERED that the Clerk of Court is directed to enter judgment in favor of plaintiff HERTZ VEHICLES, and all of its affiliates and subsidiaries, including but not limited to THE HERTZ CORPORATION AND HERTZ CO., and against defendants 999

CONEY ISLAND ENTERPRISES, INC., ACTIVE LIFE CHIROPRACTIC, P.C., ATLANTIC MEDICAL & DIAGNOSTIC, P.C., GRANDVIEW SUPPLY, INC., SPECTRUM DIAGNOSTIC IMAGING, P.C., SUNSET MEDICAL SUPPLY, P.C., and TRIUMPH PHARMACY LLC; it is further

ORDERED and ADJUDGED that plaintiff HERTZ VEHICLES, and all of its affiliates and subsidiaries, including but not limited to THE HERTZ CORPORATION AND HERTZ CO., is not obligated to honor or pay any current or future claims from defendants 999 CONEY ISLAND ENTERPRISES, INC., ACTIVE LIFE CHIROPRACTIC, P.C., ATLANTIC MEDICAL & DIAGNOSTIC, P.C., GRANDVIEW SUPPLY, INC., SPECTRUM DIAGNOSTIC IMAGING, P.C., SUNSET MEDICAL SUPPLY, P.C., and TRIUMPH PHARMACY LLC pursuant to claim number 1M01M013761703; it is further

ORDERED that, within twenty days from the date of this decision and order, plaintiff shall serve a copy of this order, with notice of entry, on defendants 999 CONEY ISLAND ENTERPRISES, INC., ACTIVE LIFE CHIROPRACTIC, P.C., ATLANTIC MEDICAL & DIAGNOSTIC, P.C., GRANDVIEW SUPPLY, INC., SPECTRUM DIAGNOSTIC IMAGING, P.C., SUNSET MEDICAL SUPPLY, P.C., and TRIUMPH PHARMACY LLC, as well as on the Clerk of the Court, who shall enter judgment accordingly; it is further

ORDERED that plaintiff's motion (seq. no. 001) for a default judgment against defendant DEMICHAEL WOODS is denied, without prejudice; and it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

Emily Morales-Minerva

3/17/2026

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