

**Commissioners of State Ins. Fund v DIAP Enters.
Corp.**

2026 NY Slip Op 31407(U)

March 31, 2026

Supreme Court, New York County

Docket Number: Index No. 452718/2024

Judge: Emily Morales-Minerva

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This opinion is uncorrected and not selected for official publication.

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

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COMMISSIONERS OF STATE INSURANCE FUND	INDEX NO. <u>452718/2024</u>
Plaintiff,	MOTION DATE <u>11/21/2025</u>
- v -	MOTION SEQ. NO. <u>001</u>
DIAP ENTERPRISES CORP.,	
Defendant.	

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18
were read on this motion to/for JUDGMENT - DEFAULT.

APPEARANCES:

Maidenbaum & Associates P.L.L.C, Merrick, NY (Jeffrey A. Maidenbaum, Esq., of counsel), for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this breach of contract and account stated action to recover unpaid insurance premiums, plaintiff COMMISSIONERS OF STATE INSURANCE FUND (plaintiff) moves, pursuant to CPLR § 3215, for an order granting it leave to enter a default judgment against defendant DIAP ENTERPRISES CORP. (defendant) in the sum of \$102,399.74, plus statutory interest from February 10, 2024, costs, and disbursements.

Defendant does not appear or submit opposition to the motion (sequence number 01).

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 defendant by submitting, among other things, the affirmation of service (NYSCEF Doc. No. 03); the affirmation of additional mailing (NYSCEF Doc. No. 15); an attorney affidavit (NYSCEF Doc. No. 06); the affidavit of Michelle Walker, a receivables management supervisor of the plaintiff (NYSCEF Doc. No. 07); the application for insurance (NYSCEF Doc. No. 08); the policy jacket (NYSCEF Doc. No. 09); the notice of cancellation (NYSCEF Doc. No. 10); the audit

information pages and final earned premium bills (NYSCEF Doc. No. 11); the final statement of account (NYSCEF Doc. No. 12); and final invoice with collection cost (NYSCEF Doc. No. 13) (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])).

Accordingly, it is hereby

ORDERED that plaintiff's motion (seq. no. 01) for a default judgment is granted; it is further

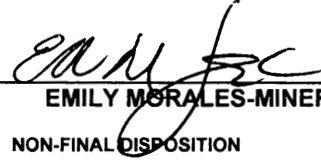
ORDERED that the Clerk of Court is directed to enter judgment in favor of plaintiff COMMISSIONERS OF STATE INSURANCE FUND and against defendant DIAP ENTERPRISES CORP. in the sum of \$102,399.74, plus statutory interest from February 10, 2024, costs, and disbursements; it is further

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 defendant, as well as on the Clerk of the Court, who shall enter judgment accordingly; and it is further

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

3/31/2026

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