

**Omaha Prop. Mgr., LLC v
Carriage Townhouse Homeowners Assn., Inc.**

2026 NY Slip Op 31471(U)

April 14, 2026

Supreme Court, Nassau County

Docket Number: Index No. 617628/2024

Judge: Philippe Solages, Jr.

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NASSAU COUNTY

PRESENT: HON. PHILIPPE SOLAGES, JR., A.J.S.C.

Justice

-----X

OMAHA PROPERTY MANAGER, LLC

Plaintiff,

- v -

CARRIAGE TOWNHOUSE HOMEOWNERS ASSOCIATION, INC.,

Defendant.

-----X

INDEX NO. 617628/2024
PART 30
MOTION SEQ. NO. 001 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22

were read on this motion to/for JUDGMENT - DEFAULT

The following e-filed documents, listed by NYSCEF document number (Motion 002) 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35

were read on this motion to/for DISMISS

Upon the foregoing documents, plaintiff moves for an order pursuant to CPLR § 3215 granting leave to enter a default judgment against defendant on its causes of actions seeking, among other things, (1) a declaration that plaintiff is not liable to defendant for amounts owed in past due common charges, assessments and fees, and (2) damages for tortious interference with a prospective contract or business relationship and willful misconduct. Defendant opposes and cross moves for an order (1) dismissing plaintiff's complaint for lack of personal jurisdiction pursuant to CPLR 3211(a)(8), or alternatively, (2) granting defendant leave to file a late answer and compelling plaintiff to accept service of same pursuant to CPLR § 3012(d), and (3) directing plaintiff's compliance with Real Property Law § 339-j and defendant's Declaration and By-Laws as it pertains to the payment of assessments and fees.

To prevail on a motion for a default judgment under CPLR § 3215, a plaintiff must provide proof of service of the summons and complaint, proof of the defendant's default, and proof of the facts constituting the claim (*see* CPLR § 3215[f]). "To demonstrate the facts constituting the claim the movant need only submit sufficient proof to enable a court to determine that a viable cause of action exists" (*Pemberton v Montoya*, 216 AD3d 988, 989 [2d Dept 2023] [internal quotations and citations omitted]). "Once the plaintiff has made such a showing, the defendant, in order to avoid entry of a default judgment, 'must show either that there was no default, or that [the defendant] has a reasonable excuse for its delay and a potentially meritorious defense'" (*id.*, quoting *Fried v Jacob Holding, Inc.*, 110 AD3d 56, 60 [2d Dept 2013]).

Here, the Court concludes that plaintiff has provided proper proof of service pursuant to CPLR § 311(a)(1) and that plaintiff's submissions, including the judgment of foreclosure and sale, are sufficient to support a viable claim that it is not liable for any amounts owed in common charges, assessments and fees that accrued prior to its purchase of the subject property at a foreclosure sale. Accordingly, the Court grants plaintiff a default judgment on its first and second causes of action to the extent of directing a hearing to ascertain and compute the amounts owed by plaintiff in common charges accruing after its purchase of the subject property.

However, the Court denies plaintiff's motion for a default judgment on its third and fourth causes of action alleging, respectively, tortious interference with a prospective contract or business relationship and willful misconduct. Plaintiff's proof falls short of showing a viable claim under its second cause of action, as plaintiff offers no proof that defendant "acted solely out of malice or used improper or illegal means that amounted to a crime or independent tort" (*Plymouth Capital, LLC v Montage Fin. Group, Inc.*, 230 AD3d 1361, 1363 [2d Dept 2024]).

Plaintiff's proof is similarly insufficient to support a viable claim for willful misconduct (*see Goepf v American Overseas Airlines, Inc.*, 281 App Div 105, 110-111 [1st Dept 1952]).

Defendant, in opposition, fails to offer a reasonable excuse for its default. To the extent defendant claims that it was not properly served, the Court notes that defendant waived any defenses founded upon lack of personal jurisdiction pursuant to a stipulation entered on October 31, 2024 (NYSCEF Doc. No. 9). In any event, the affidavit of plaintiff's process server is prima facie proof of proper service pursuant to CPLR § 311(a)(1) and defendant fails to proffer specific facts to rebut that showing (*see US Bank, N.A. v Peralta*, 142 AD3d 988 [2d Dept 2016]). Notably, defendant submits no proof that the person served was not authorized to accept service on its behalf.

Although defense counsel avers that defendant has made "good faith efforts" to resolve the matter without the need for litigation, counsel does not describe what those efforts were and "fail[s] to substantiate that the ... lengthy delay in seeking leave to serve a late answer ... was due to settlement negotiations" (*Arnav Industries Inc. Profit Sharing Plan and Trust v 3449-3461 Hamilton Ft, LLC*, 237 AD3d 786, 789 [2d Dept 2025] [internal quotations and citation omitted]). Indeed, although plaintiff agreed to extend defendant's time to answer to November 29, 2024, defendant failed to do so and made no such attempt until almost eight months later, after plaintiff had already filed its motion for a default judgment. In the absence of a reasonable excuse for the delay, the Court need not consider whether defendant has a potentially meritorious defense (*see id.*). Thus, defendant's cross motion is denied.

Accordingly, it is hereby

ORDERED, that plaintiff's motion for a default judgment is GRANTED to the extent that plaintiff is not liable for any common charges, assessments or fees incurred prior to its purchase of the subject property, and it is further

ORDERED, that a hearing shall be held before a court-appointed referee to ascertain and compute the amount owed by plaintiff in common charges consistent with this Decision and Order, and it is further

ORDERED, that plaintiff is directed to submit, on notice, a proposed order of reference, and it is further

ORDERED, ADJUDGED, and DECLARED, that plaintiff is not liable to defendant for any outstanding common charges, assessments, and related fees that accrued prior to May 8, 2023 with respect to real property located at 1601-16 Johnson Avenue, Elmont, NY 11003 with a tax map designation of Section 32, Block 470, Lot 24, and it is further

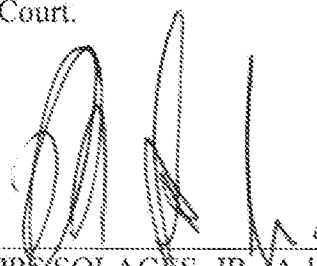
ORDERED, that defendant's cross motion is DENIED in its entirety.

Anything not specifically granted herein is denied.

This shall constitute the Decision and Order of the Court.

Dated: April 14, 2026

ENTER:



HON. PHILIPPE SOLAGES, JR., A.J.S.C.

ENTERED

Apr 15 2026

NASSAU COUNTY
COUNTY CLERK'S OFFICE