

**Nunez v Universal Contr. of N.Y. Corp.**

2026 NY Slip Op 31480(U)

April 9, 2026

Supreme Court, New York County

Docket Number: Index No. 157333/2020

Judge: Hasa A. Kingo

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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. HASA A. KINGO PART 65M**

*Justice*

-----X

GUILLERMO NUNEZ,  
Plaintiff,

- v -

UNIVERSAL CONTRACTING OF NEW YORK CORP.,  
RIGHTWAY PLUMBING AND HEATING INC., 132W26  
OWNER LLC, EASTERN MERIDIAN CORP, FLATIRON  
REAL ESTATE ADVISORS, LLC,

Defendant.

-----X

UNIVERSAL CONTRACTING OF NEW YORK CORP.,  
132W26 OWNER LLC

Plaintiff,

-against-

EASTERN MERIDIAN CORP.

Defendant.

-----X

INDEX NO. 157333/2020  
MOTION DATE 04/03/2026  
MOTION SEQ. NO. 007

**DECISION + ORDER ON  
MOTION**

Third-Party  
Index No. 595219/2024

The following e-filed documents, listed by NYSCEF document number (Motion 007) 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239

were read on this motion for DEFAULT JUDGMENT.

Second Third-Party Plaintiff Strategic Fire Corp. moves, pursuant to CPLR § 3215, for the entry of a default judgment against non-appearing Second Third-Party Defendant Eastern Meridian Corp., based upon its failure to appear, answer, or otherwise respond to the Second Third-Party Summons and Complaint.

The moving party further seeks such other and further relief as the Court deems just and proper. As set forth in the motion papers, Strategic Fire Corp. commenced the second third-party action on March 6, 2025, and effected service upon Eastern Meridian Corp. through the Secretary

of State on March 13, 2025, after which more than thirty days elapsed without any appearance or response by the defaulting party.

### **BACKGROUND AND PROCEDURAL HISTORY**

This action arises from a workplace accident allegedly sustained by plaintiff Guillermo Nunez at premises located at 132 West 26th Street in Manhattan. The underlying action was commenced by the filing of a Summons and Verified Complaint on September 11, 2020, naming multiple defendants, including Universal Contracting of New York Corp., Rightway Plumbing and Heating Inc., and others.

Thereafter, the litigation proceeded through discovery and motion practice. By Order dated March 3, 2024, this Court granted a default judgment against Eastern Meridian Corp. and another defendant in the main action due to their failure to appear.

Subsequently, on March 6, 2025, Strategic Fire Corp., as Second Third-Party Plaintiff, commenced a second third-party action against Eastern Meridian Corp. asserting claims sounding in common-law indemnification and contribution. The second third-party pleadings alleged that Eastern Meridian Corp. performed painting work at the subject premises and utilized tarps in the stairwell area where the accident occurred.

The record reflects that the Second Third-Party Summons and Complaint were served upon Eastern Meridian Corp. through the New York Secretary of State on March 13, 2025, and that additional correspondence was thereafter transmitted to both the corporation and its insurer advising of the pending action and requesting a response. Despite these efforts, Eastern Meridian Corp. failed to appear, answer, or otherwise move with respect to the pleadings.

The instant motion for a default judgment was timely made within one year of the default.

### **ARGUMENTS**

Strategic Fire Corp. contends that it has satisfied all statutory prerequisites for entry of a default judgment under CPLR § 3215. Specifically, the moving party asserts that it has demonstrated: 1.) proper service of the Second Third-Party Summons and Complaint; 2.) the defaulting party's failure to appear or respond within the statutory period; and 3.) proof of the facts constituting viable claims for indemnification and contribution.

In support of its application, the moving party relies upon deposition testimony and documentary evidence establishing that the tarp alleged to have caused plaintiff's fall was associated with painting work performed by Eastern Meridian Corp., and not with the operations of Strategic Fire Corp. The moving party therefore contends that Eastern Meridian Corp. bears responsibility for the condition that allegedly caused the accident and is liable to Strategic Fire Corp. for indemnification and contribution.

No opposition has been submitted.

## DISCUSSION

CPLR § 3215(a) provides that when a defendant has failed to appear, plead, or proceed to trial, a plaintiff may seek entry of a default judgment. The statute embodies a fundamental procedural mechanism designed to ensure the orderly administration of justice and to prevent litigation from being obstructed by a party's failure to participate in the process.

To establish entitlement to a default judgment, the movant must demonstrate proof of service of the summons and complaint, proof of the default, and proof of the facts constituting the claim (*PV Holding Corp. v AB Quality Health Supply Corp.*, 189 AD3d 645, 646 [1st Dept 2020]; *Gantt v North Shore-LIJ Health Sys.*, 140 AD3d 418, 418 [1st Dept 2016]).

However, the entry of a default judgment is not automatic. Courts are obligated to ensure that the pleadings and supporting proof establish a prima facie basis for liability, even in the absence of opposition. As the Appellate Division, First Department, has observed, CPLR § 3215 does not contemplate that default judgments are to be rubber-stamped once jurisdiction and a failure to appear have been shown; rather, some proof of liability is required to satisfy the court as to the prima facie validity of the uncontested cause of action (*Guzetti v City of New York*, 32 AD3d 234, 235 [1st Dept 2006], quoting *Joosten v Gale*, 129 AD2d 531, 535 [1st Dept 1987]).

The Court of Appeals has similarly held that in default proceedings, the movant need only allege enough facts to enable the court to determine that a viable cause of action exists (*Woodson v Mendon Leasing Corp.*, 100 NY2d 62, 71 [2003]).

These principles reflect the judiciary's dual responsibility to respect procedural defaults while ensuring that judgments rest upon a legally sufficient foundation.

Here, the court finds that the moving party has established proper service of the Second Third-Party Summons and Complaint upon Eastern Meridian Corp. through the Secretary of State in accordance with the Business Corporation Law. The affidavit of service annexed to the motion papers demonstrates that service was completed on March 13, 2025.

The court further finds that Eastern Meridian Corp. failed to appear or respond within the time prescribed by statute. The record reflects that more than thirty days elapsed following service without any answer, motion, or appearance. Such failure constitutes a default within the meaning of CPLR § 3215. The absence of any responsive pleading or request for extension of time confirms that the defaulting party has elected not to participate in the litigation process.

The court next considers whether the moving party has demonstrated the factual basis necessary to establish viable claims for indemnification and contribution. The motion papers include sworn testimony and documentary evidence describing the circumstances of the accident. Plaintiff testified that he encountered a tarp on the stairway while ascending to another floor and fell when the tarp shifted beneath him.

Additional deposition testimony established that Eastern Meridian Corp. was the subcontractor performing painting work at the premises and that painters commonly used tarps to

protect surfaces during such work. The record further reflects that Strategic Fire Corp. did not engage in painting work at the premises and did not utilize tarps in the course of its operations. Taken together, these facts provide a rational basis for the claims asserted against Eastern Meridian Corp. and satisfy the requirement that the movant demonstrate the prima facie validity of the uncontested causes of action.

In light of the foregoing, the court concludes that Strategic Fire Corp. has satisfied each element required for entry of a default judgment under CPLR § 3215. Indeed, the moving party has demonstrated: 1.) proper service of the pleadings; 2.) the defaulting party’s failure to appear or respond; and 3.) sufficient proof of facts establishing viable claims for indemnification and contribution.

Accordingly, the motion must be granted.

The court emphasizes that default judgments serve an essential function in civil litigation. They protect the integrity of judicial proceedings by ensuring that parties who disregard their obligations to appear and defend claims cannot frustrate the orderly resolution of disputes. At the same time, courts remain mindful of their responsibility to confirm that the claims asserted possess a sound legal and factual basis before granting such relief.

Here, the record demonstrates both procedural compliance and substantive merit. The moving party has established entitlement to the relief sought, and the absence of opposition further supports the entry of judgment.


Accordingly, it is hereby

ORDERED that the motion of Second Third-Party Plaintiff Strategic Fire Corp. for a default judgment pursuant to CPLR § 3215 against non-appearing Second Third-Party Defendant Eastern Meridian Corp. is granted; and it is further

ORDERED that the parties shall appear for a pre-trial conference in Part 40 at 60 Centre Street, New York, New York, on the previously scheduled date of September 10, 2026; and it is further

ORDERED that the parties shall thereafter appear for jury selection on the previously scheduled date of November 2, 2026.

This constitutes the decision and order of the court.

  
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**HASA A. KINGO, J.S.C.**

4/9/2026  
**DATE**

<b>CHECK ONE:</b>	<input type="checkbox"/>	<b>CASE DISPOSED</b>	<input checked="" type="checkbox"/>	<b>NON-FINAL DISPOSITION</b>	
	<input checked="" type="checkbox"/>	<b>GRANTED</b>	<input type="checkbox"/>	<b>GRANTED IN PART</b>	<input type="checkbox"/> <b>OTHER</b>
<b>APPLICATION:</b>	<input type="checkbox"/>	<b>SETTLE ORDER</b>		<input type="checkbox"/>	<b>REFERENCE</b>
<b>CHECK IF APPROPRIATE:</b>	<input type="checkbox"/>	<b>INCLUDES TRANSFER/REASSIGN</b>		<input type="checkbox"/>	