

**Academic Health Professionals Ins. Assn. v
Bhagavanti**

2026 NY Slip Op 31672(U)

April 15, 2026

Supreme Court, New York County

Docket Number: Index No. 650871/2024

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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ACADEMIC HEALTH PROFESSIONALS INSURANCE
ASSOCIATION- A RECIPROCAL INSURER,

Plaintiff,

- v -

SATYAKAM BHAGAVANTI, JOSE CABASSA, HOWARD
CRYSTAL, ADRIAN MARCHIDANN, MAHSA MEHRAZIN,
JONATHAN PERK, DANIEL M. ROSENBAUM, NOA
SHEIKIN, ROBERT DIRAIMO, CHRISTOS D. DOSSA,
BERNARD R. ALTER, DIEDRICH K. HOLTkamp,
NARAYAN SUNDARESAN, ABRAHAM HALFEN,
LAUREN SAFIER, JAMES R. STELLING, BRADLEY
TRIVAX, DAVID M. VENT, RAMAKRISHNA V KARIBANDI

Defendant.

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INDEX NO. 650871/2024
MOTION DATE 08/29/2025
MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 44, 45, 46, 47, 48,
49

were read on this motion to/for JUDGMENT - DEFAULT

APPEARANCES:

Dentons US LLP, New York, NY (Charles Edward Dorkey III, Esq.,
of counsel), for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this action, plaintiff ACADEMIC HEALTH PROFESSIONALS
INSURANCE ASSOCIATION - A RECIPROCAL INSURER (plaintiff) moves,
pursuant to CPLR § 3215, for an order granting it leave to enter
a default judgment against defendant ABRAHAM HALFEN (defendant)
in the amount of \$32,934.00.

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]).

Further, the Federal Servicemembers Civil Relief Act and New York State Soldiers' and Sailor's Civil Relief Act requires a party seeking a default judgment against an individual defendant to submit proof that said defendant was not in military service at the time of the default (see 50 USC § 3931 [b] [1] [emphasis added]; see also Military Law § 309 [1]).

"A proper affidavit of nonmilitary service should include the date and location of the investigation and the facts gleaned from the investigation" (Benabi Realty Mgt. Co. v Van Doorne, 190 Misc2d 37, 38 [Sup Ct NY Cnty 2001]). Documentation provided directly from the Department of Defense Manpower Data Center -- "the official source of data on eligibility for military" -- is sufficient to enable the court to conclude that a respondent is not currently on active military duty, or was at the time of the default (363 Assoc. v Sharhan, 2 Misc3d 928, 930 [Civ Ct NY Cnty 2003]).

Here, plaintiff fails to submit an affidavit of non-military service. Instead, plaintiff submits the affirmation of counsel, who states "upon information and belief, [defendant] . . . is not presently in the military service of the United States" (NYSCEF Doc. No. 45, affirmation of Charles E. Dorkey III, Esq.). This does not constitute an adequate investigation into defendant's military status at the time of default (see MB v Precise Mgt., Inc., 2018 WL 2415953, *1 [Sup Ct NY Cnty 2018] [holding that "a default judgment motion must be accompanied by an investigation into the military status of the defendant and an affidavit detailing the investigation, which cannot be cursory"], citing Unitrin Advantage Ins. Co. v 21st Century Pharm., 158 AD3d 450, 451 [1st Dept 2018]; see also Nedeltcheva v MTE Transp. Corp., 2016 WL 4256556, *1 [Sup Ct NY

Cnty 2016], affd sub nom. Nedeltcheva v MTE Transportation Corp.
157 AD3d 423 [1st Dept 2018]).

Notwithstanding this defect, the affirmation of service pursuant to CPLR § 308 (4) is also defective (see NYSCEF Doc. No. 45, affirmation of service). CPLR § 308 (4) provides that “where service of process cannot be made with due diligence by personal delivery (CPLR § 308 [1]) or by the delivery and mail alternative (308 § [2]), service can be affected [] by affixing the summons to the door of . . . the actual . . . dwelling place or usual place of abode . . . of the person to be served and by . . . mailing the summons to such person at his or her last known address” (Spath v Zack, 36 AD3d 410, 411 [1st Dept 2007], quoting CPLR § 308 (4) [internal quotation marks omitted, emphasis added]).

“It is the movant’s burden to establish that personal jurisdiction has been acquired over the person to be served and, in determining whether the requisite due diligence has been fulfilled, the focus is on the quality of such attempts, and not the quantity” (Lorna Y. v Jeffrey Z., 185 AD3d 1235, 1238 [3d Dept 2020]; Greene Major Holdings, LLC v Trailside at Hunter, LLC, 148 AD3d 1317 [3d Dept 2017] [holding that “what constitutes due diligence is determined on a case-by-case basis”]).

The affirmation of service reflects that plaintiff’s process server made four attempts at service. The first three

attempts occurred on consecutive days -- June 05, 2024, June 06, 2024, and June 07, 2024 -- and two of those attempts were made during hours that defendant reasonably could be expected to be either at or in transit to work (see Kader v Kader, 132 AD3d 1376 [4th Dept 2015] [holding that due diligence requirement of CPLR § 308 (4) not satisfied where the process server attempted to serve defendant three times, all on weekdays during normal business hours]). The fourth attempt occurred on June 10, 2024, also a weekday.

Additionally, the affirmation of service provides that on the first attempt at service -- June 05, 2024 -- the "front desk confirmed residence of the subject to the unit, but further explained that they were on vacation" (NYSCEF Doc. No. 46, affirmation of service [emphasis added]). Despite being informed that defendant was on vacation, the process server continued to attempt service on consecutive days. These efforts are insufficient to demonstrate due diligence (see Bd. of Managers of 50 W. 127th St. Condominium v Kidd, 169 AD3d 432 [1st Dept 2019]).

Accordingly, it is hereby

ORDERED that plaintiff's motion (seq. no. 001), pursuant to CPLR § 3215, for a default judgment, is dismissed without prejudice; it is further

ORDERED that, within fifteen days from the date of this decision and order, plaintiff shall serve a copy of this order, with notice of entry, upon defendant; it is further

ORDERED that plaintiff shall bring a renewed default judgment motion within 90 days from the date of this decision and order; and it is further

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

4/15/2026
DATE

Emily Morales-Minerva
EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED	<input type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>
					<input type="checkbox"/>
					REFERENCE