

603 Bergen LLC v Tarjan Holdings LLC

2026 NY Slip Op 31880(U)

April 29, 2026

Supreme Court, New York County

Docket Number: Index No. 653019/2025

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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603 BERGEN LLC,

Plaintiff,

- v -

TARJAN HOLDINGS LLC, PETRAS LAW OFFICE PLLC

Defendants.

INDEX NO. 653019/2025

MOTION DATE 08/22/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16

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

APPEARANCES:

Kaufman & Kahn, LLP, New York, NY (Mark S. Kaufman, Esq.),
for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this declaratory action for non-compliance with a post-closing escrow agreement, plaintiff 603 BERGEN LLC (plaintiff) moves, pursuant to CPLR § 3215, for an order granting it leave to enter a default judgment against defendant TARJAN HOLDINGS LLC (1) in the amount "not less than \$200,000.00," together with statutory interest from April 8, 2025, and (2) in the amount of "not less than \$10,470.00," together with statutory interest from April 15, 2020. Plaintiff also seeks a declaratory judgment against defendant PETRAS LAW OFFICE PLLC, AS ESCROW AGENT, directing that said defendant release the escrow funds to

plaintiff. Lastly, plaintiff seeks an award of attorneys' fees against defendants.

Defendants do 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 defendants by submitting, among other things, the affirmations of service (see NYSCEF Doc. Nos. 09 and 11); the affirmation of additional mailing (see NYSCEF Doc. No. 10); proof of the underlying facts constituting the claim (see

NYSCEF Doc. No. 14); and proof of default (see NYSCEF Doc. No. 7) (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, "it is well settled that a default judgment may be determinative of liability but not the amount of damages to be awarded, unless there can be no dispute as to the amount due, the amount being a 'sum certain'" (Arent Fox Kintner Plotkin & Kahn, PLLC v Lurzer GmbH, 297 AD2d 590, 590 [1st Dept 2002]; see also see Qiang Tu v Li Shen, 190 AD3d 1125, 1128 [3d Dept 2021])). Plaintiff's claims for damages "not less than \$200,000.00" and "not less than \$10,470.00" are not for a sum certain and therefore, plaintiff shall be directed to an Inquest.

Accordingly, it is hereby

ORDERED that plaintiff's motion (seq. no. 01) for a default judgment is granted against defendants TARJAN HOLDINGS LLC and PETRAS LAW OFFICE PPLC, AS ESCROW AGENT on the issue of liability; it is further

ORDERED and ADJUGED that defendant PETRAS LAW OFFICE PPLC, AS ESCROW AGENT is directed to release the funds held in escrow to plaintiff within thirty days from the date of this decision and order; it is further

ORDERED that, within fifteen days from the date of this decision and order, plaintiff shall serve a copy of this order on defendants, as well as on the Clerk of the Court, who shall enter judgment accordingly; it is further

ORDERED that the issues of (1) damages and (2) the amount of reasonable attorneys' fees that plaintiff may recover against defendants TARJAN HOLDINGS LLC and PETRAS LAW OFFICE PLLC, AS ESCROW AGENT are referred to a Special Referee to hear and determine; it is further

ORDERED that defendant shall, within 30 days from the date of this order, serve a copy of this order with notice of entry, together with a completed Information Sheet, upon the Special Referee Clerk in the General Clerk's Office (Room 119), who is directed to place this matter on the calendar of the Special Referee's Part for the earliest convenient date; and it is further

ORDERED that such service upon the Special Referee Clerk shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh).

4/29/2026

DATE

Emily Morales-Minerva
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