

**American Express Travel Related Servs. Co., Inc. v
Gamma Holdings, LLC**

2026 NY Slip Op 31972(U)

May 8, 2026

Supreme Court, New York County

Docket Number: Index No. 155739/2024

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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AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.	INDEX NO.	<u>155739/2024</u>
Plaintiff,	MOTION DATE	<u>02/19/2026</u>
- v -	MOTION SEQ. NO.	<u>001</u>
GAMMA HOLDINGS, LLC,		
Defendant.	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
were read on this motion to/for JUDGMENT - DEFAULT

APPEARANCES:

Zwicker & Associates, P.C., Somerset, NJ (Madge Rosalie Buckle, Esq. of counsel), for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this action, plaintiff AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC. (plaintiff) moves, pursuant to CPLR § 3215, for an order granting it leave to enter a default judgment against defendant GAMMA HOLDINGS, LLC (defendant) in the amount of \$50,088.96, together with 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 (see NYSCEF Doc. No. 03); the affirmation of additional mailing (see NYSCEF Doc. No. 04); the affidavit of Cesar Eduardo Cervantes, Assistant Custodian of Records for plaintiff (see NYSCEF Doc. No. 11); defendant's commercial account application (see id.); the statements of the defendant's account (see id.) and an attorney affirmation (see NYSCEF Doc. No. 09) (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]).

Further, CPLR § 3215 (c) provides that "[i]f the plaintiff fails to take proceedings for the entry of judgment within one year after [a] default, the court shall not enter judgment but shall dismiss the complaint as abandoned, without costs [] unless sufficient cause is shown why the complaint should not be dismissed" (emphasis added);

Here, although plaintiff failed to take proceedings for entry of judgment within one year after defendant's default, plaintiff demonstrates sufficient cause why the complaint should not be dismissed, especially in consideration of the relatively short delay of approximately five and a half months (see NYSCEF Doc. No. 10, memorandum of law [stating that, due to law office failure -- specifically, "high turn-over in plaintiff counsel's office," the resulting reassignment of this matter, and the expiration of an affidavit prepared by prior counsel -- "the motion was inadvertently missed"]; see also Harrison v Morrison, 49 AD3d 276 [1st Dept 2008] [holding that "the acceptance of the excuse offered for the relatively short delay was, under the circumstances a proper exercise of judicial discretion"]; Gayle v Parker, 300 AD2d 145 [1st Dept 2002] [holding that "law office failure may be accepted as a reasonable excuse [pursuant to] CPLR 2005]").

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 AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY INC. and against defendant GAMMA HOLDINGS, LLC in the amount of \$50,088.96, together with 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.

5/8/2026
DATE


EMILY MORALES-MINERVA, J.S.C.

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