

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. EILEEN A. RAKOWER
Justice

PART 15

Index Number : 161898/2014
ABAD, AUGUSTO
vs.
PADULA, JR, RAYMOND
SEQUENCE NUMBER : 002
REARGUE

INDEX NO.
MOTION DATE
MOTION SEQ. NO.

The following papers, numbered 1 to , were read on this motion to/for

Notice of Motion/Order to Show Cause — Affidavits — Exhibits No(s).
Answering Affidavits — Exhibits No(s).
Replying Affidavits No(s).

Upon the foregoing papers, it is ordered that this motion is

DECIDED IN ACCORDANCE WITH
ACCOMPANYING DECISION / ORDER

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

Dated: 2/7/16

[Signature] J.S.C.

HON. EILEEN A. RAKOWER

- 1. CHECK ONE: [X] CASE DISPOSED [] NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: MOTION IS: [] GRANTED [] DENIED [] GRANTED IN PART [] OTHER
3. CHECK IF APPROPRIATE: [] SETTLE ORDER [] SUBMIT ORDER
[] DO NOT POST [] FIDUCIARY APPOINTMENT [] REFERENCE

FEB 17 2016

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 15

-----X
AUGUST ABAD,

Plaintiff,

Index No.
161868/2014

**DECISION and
ORDER**

- against -

Mot. Seq. #001

RAYMOND PADULA, JR., RAY PADULA, INC.,
RAY PADULA ENTERPRISES, LLC, and RAY
PADULA INDUSTRIES, INC.,
Defendants.

-----X
HON. EILEEN A. RAKOWER, J.S.C.

Plaintiff brings this action seeking repayment of loans made to defendants, Raymond Padula, Jr., Ray Padula, Inc., Ray Padula Enterprises, LLC, and Ray Padula Industries, Inc. (collectively, "Defendants").

Plaintiff previously moved for an Order, pursuant to CPLR § 3215, granting judgment on default in favor of Plaintiff and against Defendants in the amount of \$156,351.91. By Order dated October 2, 2015, Plaintiff's motion for default judgment was granted as against defendants Ray Padula, Inc., Ray Padula Enterprises, LLC, and Ray Padula Industries, Inc. Plaintiff's motion for default judgment was denied as against defendant Raymond Padula, Jr, as untimely. Based on Plaintiff's representation that Plaintiff had served Ray Padula, Jr., on February 24, 2014 and the fact that the motion as not brought until June 25, 2015, over one year after his default, Plaintiff's motion was denied as against him as untimely under CPLR § 3215

On October 5, 2015, Plaintiff filed a motion to reargue this Court's October 2, 2015 Order, and for default judgment as against defendant Ray Padula, Jr. Plaintiff states that Plaintiff's previous application was made one year after service of process upon defendant Ray Padula, Jr. Plaintiff states "it was the Plaintiff's

attorney affirmation that inadvertently typed the wrong year 2014 for service of process, as opposed to 2015. Specifically, the undersigned's attorney affirmation in support of default should have read that Defendant Padula was served on 'February 24, 2015', not 'February 24, 2014' as written." Plaintiff further states, "The affidavit of service with the correct date was electronically filed as Exhibit 'B,' but the attorney affirmation was incorrect."

Wherefore, it is hereby,

ORDERED that Plaintiff's motion for reargument is granted; and it is further

ORDERED that upon reargument, Plaintiff's motion for default judgment against defendant Ray Padula, Jr., is granted without opposition; and it is further

ORDERED that the Clerk enter judgment in favor of Plaintiff against defendant Ray Padula, Jr., in the amount of \$156,351.91, together with interest as prayed for allowable by law (at the rate of 9% per annum) until the date of entry of judgment, as calculated by the Clerk, and thereafter at the statutory rate, together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs.

This constitutes the Decision and Order of the Court. All other relief requested is denied.

DATED: FEBRUARY 17, 2016

FEB 17 2016



EILEEN A. RAKOWER, J.S.C.