

DISTRICT COURT OF THE COUNTY OF SUFFOLK, SIXTH DISTRICT

Present:

HON. Hon. James P. Flanagan Motion Date June 26, 2020
JUDGE

Slomin's Inc.

Plaintiff

AGAINST

Charles Pierre

Defendant

X

Upon the following papers numbered 1 to 2
Read on this motion to vacate judgment
~~Notice of Motion~~ Order to Show Cause and supporting papers ____ ;
Notice of Cross Motion and supporting papers ____ ;
Answering Affidavits and supporting papers ____ ;
Replying Affidavits and supporting papers 2 ____ ;
Filed papers ____ ; Other ____ .
(and after hearing counsel in support of and opposed to the motion) it is,

ORDERED that Defendant's Order to Show Cause, seeking an order vacating its default in appearance and the resulting judgment (dated 10/18/2019) must be denied.

Defendant filed a prior Order to Show Cause in January 2020, which this Jurist "declined to sign". The Court noted Defendant's weak excuse for default and the Defendant's failure to show it has a meritorious defense to the action. Both these requirements must be demonstrated for the Court to consider or grant such an application.

Addressing the application under present review, the defendant's excuse is weak, in that the defendant says he was out of state caring for a relative, yet he does not provide the dates he was out of state, or any documentation substantiating this claim. Nor did defendant make any attempt to contact the Court to adjourn the hearing date. Further, as noted in the January Order to Show Cause, which this Court did not sign, Defendant does not demonstrate that it has a meritorious defense to the action.

The Defendant entered into a 60-month written contract with Plaintiff Slomins, (which commenced in July 2014), for installation and continued monitoring of an alarm systems. While the defendant claims it "had issues with motion detectors in 2014, the kitchen motion detector in 2015, and the keypad in August 2015", the Court notes that the written contract provided for coverage to

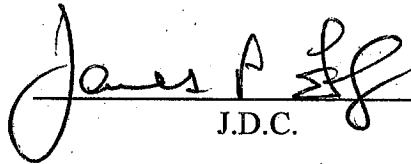
Defendant for "labor and materials for replacement or repair of any part of the system installed by Slomin's which fails from normal use..." (See, Contract, paragraph 7, Plaintiff's opposition, Exh. A). Although the contract term was until August 2019, the complaint states (and it is undisputed that the Defendant ceased making payments in April 2017).

Defendant does not show that it used its remedies under the contract or that the Plaintiff breached the contract by failure to repair required items. Further, the contract expressly states that "Plaintiff has no liability for false alarms...police response..." (See, Contract, paragraph 21).

This Court cannot grant the requested relief. Accordingly, this motion is, in all respects, denied.

New Court Date: _____

Dated: July 21st, 2020



J.D.C.



CV-001788-18/BR

attached **mailed on Monday July 27,2020 to:**

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