

DISTRICT COURT OF THE COUNTY OF SUFFOLK, FIRST DISTRICT

Present:

HON James P. Flanagan  
JUDGE

Motion Date March 10, 2008

\_\_\_\_\_  
SLOMIN'S INC.

Plaintiff

-Against-

REINA RAMIREZ

Defendant  
\_\_\_\_\_

Upon the following papers numbered 1 to 4 read on this motion to vacate the default judgment  
xxxxxxxxxxxxxxxxxxxx/Order to Show Cause and supporting papers 1, 2  
Answering Affidavits and supporting papers 3  
Replying Affidavits and supporting papers \_\_\_\_\_  
Filed papers \_\_\_\_\_ ; Other Exhibits- 4  
(and after hearing counsel in support of and opposed to the motion) it is,

**ORDERED** that this motion by the defendant to vacate her default in answering the summons and complaint and the default judgment entered thereon is denied. In order to vacate a default judgment a defendant must demonstrate a reasonable excuse for the default and a meritorious defense to the complaint (CPLR 5015[a][1]; *Hegarty v. Ballee, 18 AD3d 706; Silverman v. Deutsch, 283 AD2d 478*). Here, the defendant does not deny being served with the summons and complaint in the manner set forth in the affidavit of service, i.e., by service at her current residence upon her daughter, a person of suitable age and discretion. Rather, she merely alleges that she "...did not receive the notice to appear". Hence, the court finds that the defendant has not demonstrated a reasonable excuse for her default in answering the summons and complaint. As for a defense, the defendant merely alleges that "I did not sign the contract." However, she fails to elaborate on the claim. Moreover, in opposition the plaintiff has submitted a signed copy of the underlying security monitoring agreement. The defendant offers no reply. Under these circumstances the court finds that the defendant has failed to satisfy her burden on the motion (see *Goldstein v. Parcjay Apts. LLC, 8 Misc.3d 137(A); U.S. Equities Corp. v. Melton, 5 Misc.3d 135(A)*).

Dated: 3/27/08

James P. Flanagan  
J.P.C.

Decision to be published on line \_\_\_ Yes  No

MAILED APR 01 2008