

**DISTRICT COURT OF NASSAU COUNTY
FIRST DISTRICT: CIVIL PART 3**

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GOVERNMENT EMPLOYEES INSURANCE
COMPANY AS SUBROGEE OF GUILERMO C.
RODRIGUEZ AND LINDA M. QUINN,

Plaintiff,

against

TLC CAR WASH INC., D/B/A FARMINGDALE CAR
WASH AND MIGUEL ANGEL,

Defendant.

INDEX NO. CV 6570/10

Present:

Hon. Fred J. Hirsh

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The following named papers numbered 1 - 2
submitted on this motion on March 29, 2011

	Papers Numbered
<u>Notice of Motion and Affidavits Annexed</u>	<u>1-2</u>
<u>Order to Show Cause and Affidavits Annexed</u>	
<u>Affirmation in Opposition</u>	
<u>Replying Affidavits</u>	

Plaintiff moves for leave to enter a default judgment.

This action actually combines two separate causes of action. On April 21, 2008, Guillermo C. Rodriguez brought his 2004 Jeep Grand Cherokee to TLC Car Wash Inc. ("TLC").

While Miguel Angel, an employee of TLC, was operating Rodriguez vehicle, the Rodriguez vehicle struck a vehicle owned by Linda Quinn.

Both the Rodriguez and Quinn vehicles were damaged in the accident. Both the Rodriguez and Quinn vehicles were insured for collision damage by Government Employees Insurance Company ("Geico").

Geico paid to repair both vehicles. Geico sues to recover the amount it expended for the repair of the Rodriguez and Quinn vehicles. Geico also sues to recover the costs incurred by Quinn to rent a vehicle while her vehicle was being repaired.

Both Rodriguez and Quinn have indicated they are permitting Geico to sue to recover their deductible.

Rodriguez has established a breach of a bailment. 2 NY PJI3d 4:93 at 1155 (2010). The bailee has the burden of proving the loss was not a result of the bailee's negligence.

62 NY Jur2d *Garages* §97.

Quinn has proven negligence on the part of TLC's employee.

Geico has established both defendants were served and their time to appear has expired and not been extended.

Geico has established damages.

Therefore, plaintiff's motion for leave to enter a default judgment is granted.

The clerk shall enter a judgment in favor of plaintiff Government Employees Insurance Company a/s/o Guillermo Rodriguez and against the defendants on the first cause of action in the sum of \$9357.93 together with interest at the statutory rate from April 25, 2008 to the date of entry of judgment and in favor of plaintiff Government Employees Insurance Company a/s/o Linda Quinn and against the defendants on the second cause of action in the sum of \$6447.80 together with interest at the statutory rate from April 25, 2008 together with costs and disbursements as taxed by the clerk.

Submit judgment.

SO ORDERED:



Hon. Fred J. Hirsh
District Court Judge

Dated: May 18, 2011

cc: Law Office of Ricky J. Lucyk
TLC Car Wash Inc., Pro se
Miguel Angel, Pro se