

SHORT FORM ORDER

**SUPREME COURT - STATE OF NEW YORK
COUNTY OF NASSAU - PART 22**

**Present: HON. WILLIAM R. LaMARCA
Justice**

Scan

**ST. PAUL FIRE AND MARINE INSURANCE
COMPANY as assignee of USA REMEDIATION
SERVICES, INC.,**

**Motion Sequence # 001
Submitted December 22, 2005
XXX**

Plaintiff,

-against-

INDEX NO: 2212/05

PETER C. LEONARDIS,

Defendant.

The following papers were read on this motion:

Amended Notice of Motion.....1

Plaintiff, ST. PAUL FIRE AND MARINE INSURANCE COMPANY a/a/o USA REMEDIATION SERVICES, INC. (hereinafter referred to as "USA"), moves for an order, pursuant to CPLR § 3215, directing a default judgment in favor of the plaintiff and against the defendant, PETER C. LEONARDIS, for the relief demanded in the complaint, on the ground that defendant has failed to answer the complaint within the time prescribed by law.

In this action, plaintiff seeks to recover sums paid to its insured, USA, which has duly assigned all of its rights in this matter to plaintiff, for damages incurred as a result of defendant's misappropriation of funds belonging to USA. David M. Kelsey, the Risk

Manager for USA, relates that defendant was hired by USA as an Assistant Project Manager, whose duties included, *inter alia*, hiring individuals, submitting weekly time sheets to the USA corporate offices payroll department and distributing weekly paychecks to USA employees. Mr. Kelsey states that defendant devised a scheme to deceive and defraud USA, which consisted of laying off or firing existing employees or creating fictitious employees, submitting time sheets to USA for said fired or fictitious employees, and forging endorsements on issued payroll checks sent by USA to defendant for the purpose of distribution to the intended payees. USA states that it has been defrauded in the sum of \$89,080.27 and plaintiff, who reimbursed USA for its losses, seeks a default judgment in said sum, plus interest, costs and disbursements and attorneys fees.

An Affidavits of Service reflect that defendant was duly served with the Summons and Complaint, on February 26, 2005, at his actual dwelling place, pursuant to CPLR §308(4), "nail and mail" service, after three (3) prior attempts to personally serve him on Wednesday, February 23, 2005, Thursday, February 24, 2005 and Saturday, February 26, 2005, were unsuccessful. Additionally, on October 28, 2005, an additional copy of the Summons and Complaint was mailed to defendant, pursuant to CPLR §3215(g), and the instant motion was duly served on December 1, 2005. After a careful reading of the submission herein and there being no opposition, it is the judgment of the Court that plaintiff is entitled to the requested relief. Accordingly, it is hereby

ORDERED, that plaintiff is granted a default judgment in the action; and it is further

ORDERED, that the County Clerk shall enter judgment in favor of plaintiff, .ST. PAUL FIRE AND MARINE INSURANCE COMPANY a/a/o USA REMEDIATION SERVICES, INC.

in the sum of \$89,080.27, plus interest, costs and disbursements and attorneys fees, upon the submission of a proposed judgment to the County Clerk that complies with the mandates of CPLR §5018; and it is further

ORDERED, that plaintiff shall serve a copy of this order upon the defendant, PETER C. LEONARDIS, by regular and certified mail, return receipt requested, at his last known address, within twenty (20) days of entry.

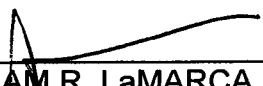
All further requested relief not specifically granted is denied.

This constitutes the decision and order of the Court.

Dated: March 6, 2006

TO: Rosner Nocera & Ragone, LLP
Attorneys for Plaintiff
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New York, NY 10005

Peter C. Leonardis
Defendant Pro Se
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Glen Cove, NY 11542


WILLIAM R. LaMARCA, J.S.C.

ENTERED
MAR 10 2006
NASSAU COUNTY
COUNTY CLERK'S OFFICE

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