

SCAN

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. THOMAS P. PHELAN,

Justice

TRIAL/IAS, PART 10
NASSAU COUNTY

RACHEL BELL, by Mother and Natural Guardian,
RIMA BELL, and RIMA BELL, Individually,

Plaintiff(s),

ORIGINAL RETURN DATE: 05/20/04
SUBMISSION DATE: 05/20/04
INDEX No.: 5469/03

-against-

MASTER CAR WASH, INC., CNL, INC.
D/B/A MASTER CAR WASH, JAY LEE CHOI
and JAMES S. LEE,

MOTION SEQUENCE #2

Defendant(s).

The following papers read on this motion:

Notice of Motion..... A

Unopposed motion by plaintiffs for an order pursuant to CPLR 3215 awarding them a default judgment against defendant Master Car Wash, Inc. (Master) is granted on the issue of liability.

By short form order dated January 30, 2004, a prior application for the same relief was denied without prejudice to renewal as plaintiffs failed to include with their papers a properly notarized affidavit of facts (CPLR 3215(f)).

Upon their renewed motion, plaintiffs have provided the requisite affidavit.

Assessment of damages against defaulting defendant Master shall be held during the trial of the action against appearing defendants CNL, Inc. d/b/a Master Car Wash, Jay Lee Choi and James S. Lee (Vierya v. Briggs & Stratton Corp., 184 AD2d 766). If, however, the appearing defendants settle with plaintiffs or successfully defend themselves against plaintiffs' claims, an inquest shall be held before the trial Justice assigned to this action; if none, an inquest shall be scheduled by the Justice presiding in the DCM trial part following the filing of a Note of Issue.

RE: BELL v. MASTER, et al.

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Plaintiffs shall serve a copy of this order upon all parties forthwith upon receipt of a copy of this order from any source.

The Court notes that there is presently scheduled a certification conference before the undersigned on August 12, 2004 at 9:30 A.M.

This decision constitutes the order of the court.

Dated: 6-4-04

HON THOMAS P. PHELAN

J.S.C.

ENTERED
JUN 07 2004
NASSAU COUNTY
COUNTY CLERK'S OFFICE