

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: WALTER B. TOLUB
Justice

PART 15

ROLEX WATCHES, USA, INC.,

INDEX NO. 105426/09

Plaintiff,

-v-

MICHAEL RODRIGUEZ AND ENCOMPASS
INSURANCE COMPANY

MOTION DATE 10/2/09
MOTION SEQ. NO. 001

Defendants.

MOTION CAL. NO. _____

The following papers, numbered 1 to _____ were read on this motion to/for _____

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...
Answering Affidavits — Exhibits _____
Replying Affidavits _____

PAPERS NUMBERED

Cross-Motion: Yes No

Upon the foregoing papers, Plaintiff's motion is granted and defendant Michael Rodriguez's cross-motion for a default judgment against Encompass Insurance Company (Encompass) and an order directing the watch to be turned over to him is also granted.

This is an interpleader action commenced by the Plaintiff pursuant to CPLR §1006(f) to determine the ownership of a Rolex watch [serial number U700996] (Watch) currently in Plaintiff's possession.

On or about November 6, 2007, Van Peterson Jewelers submitted a Rolex Watch to Rolex for service. Rolex personnel entered the Watch's serial number into the company's database and discovered that this was previously reported missing by defendant Mr. Rodriguez. Through a series of transactions, Encompass was retained to claim ownership of the Watch for claims of ownership related to Van Peterson Jewelers.

Both defendants have competing unsettled claims to the Watch. Defendant Encompass, was served on May 4, 2009 by in hand personal service to Marianne Leavitt, a registered Encompass Agent. The time for Encompass to Answer expired on July 14, 2009.

Rolex has no claim to the Watch based on Mr. Rodriguez's answer. As such, Rolex's

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

motion to be discharged as a party is granted. Additionally, in light of Encompass's default, Defendant Rodriguez's motion for the Watch to be turned over to his is also granted.

Settle Order.

Dated: _____

10/8/09



WALTER B. TOLUB, J.S.C.

Check one: **FINAL DISPOSITION** **NON-FINAL DISPOSITION**

Check if appropriate: **DO NOT POST** **REFERENCE**