

SCW

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. ROY S. MAHON
Justice

FINGERPAINTING IN A MURPHY BED, LLC,

TRIAL/IAS PART 6

Plaintiff(s),

INDEX NO. 3791/09

- against -

MOTION SEQUENCE
NO. 3

POLYCHROME PICTURES, LLC LIGHTYEAR
ENTERTAINMENT, L.P., ARNOLD HOLLAND,
EUGENE TAYLOR and WAYNE COX,

MOTION SUBMISSION
DATE: February 22, 2011

Defendant(s).

The following papers read on this motion:

Notice of Motion	X
Affirmation in Partial Opposition	X
Reply Affirmation	X

Upon the foregoing papers the motion by plaintiff, for an Order entering a default judgment against defendant Wayne Cox pursuant to NYCRR §§3215(a)-(b); permitting plaintiff to file a note of issue as to defendant Cox, but continuing the action as against defendants Lightyear Entertainment, P.C., Arnold Holland and Eugene Taylor and directing plaintiff to proceed with an inquest and assessment of damages as to defendant Cox, is determined as hereinafter provided:

That branch of the plaintiff's application which seeks an Order entering a default judgment against defendant Wayne Cox pursuant to NYCRR §§3215(a)-(b), is **granted**. Lack of opposition is tantamount to consent.

Pursuant to the provisions of CPLR §3125(d), the issue of the assessment of damages, if any, as to the defendant Wayne Cox is deferred to the time of trial as to the other defendants. As such, those branches of the plaintiff's motion which seek an Order permitting plaintiff to file a note of issue as to defendant Cox, but continuing the action as against defendants Lightyear Entertainment, P.C., Arnold Holland and Eugene Taylor and directing plaintiff to proceed with an inquest and assessment of damages as to defendant Cox, are both **denied**.

SO ORDERED.

DATED: 4/25/2011

ENTERED *Roy S. Mahon*
..... J.S.C.

APR 28 2011

NASSAU COUNTY
COUNTY CLERK'S OFFICE