

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

ORIGINAL

Present: ANTONIO I. BRANDVEEN  
J. S. C.

COMPACT HVAC, INC.,

Plaintiff,

- against -

118 RIVER ROAD, LLC, MYLAR RUTNER and  
JESSI SINGER,

Defendant.

TRIAL / IAS PART 31  
NASSAU COUNTY

Index No. 606299/16

Motion Sequence No. 001

The following papers having been read on this motion:

Notice of Motion, Affidavits, & Exhibits .....	<u>1</u>
Answering Affidavits .....	_____
Replying Affidavits .....	_____
Briefs: Plaintiff's / Petitioner's .....	_____
Defendant's / Respondent's .....	_____

Compact HVAC, Inc., the plaintiff moves pursuant to CPLR 3215 for an order directing the entry of a default judgment on the first and second causes of action in the complaint for \$29,606.31 against 118 River Road, LLC and Mylar Rutner. Compact HVAC, Inc. also moves pursuant to CPLR 3215 for an order directing the entry of a default judgment on the third cause of action in the complaint with interest on all monies due computed at the rate of 18.5% per annum from July 28, 2016, against 118 River Road, LLC and Rutner, the managing member of 118 River Road, LLC. Compact HVAC, Inc. also moves pursuant to CPLR 3215 for an order awarding it reasonable attorneys' fees, and costs and disbursements. There is no opposition to this motion.

Compact HVAC, Inc. provides an affidavit dated February 15, 2017, by Frank Castro,

the plaintiff's president, who stated he is familiar with the business practices and procedures of Compact HVAC, Inc., including the making of business agreements and performing the required work pursuant to those agreements for Compact HVAC, Inc.'s air conditioning and HVAC business. Castro stated Compact HVAC, Inc. entered into a written agreement with 118 River Road, LLC for air conditioning and related work. Castro states Compact HVAC, Inc. performed its work and additional work for 118 River Road, LLC and Rutner, and provided the invoice for its work as described in the agreement and the invoice. Castro states Compact HVAC, Inc. was unable to install two of the 20 air-conditioning units because 118 River Road, LLC and Rutner failed to supply those units.

The Court determines Compact HVAC, Inc. satisfies its CPLR 3215 burden for directing the entry of a default judgment against 118 River Road, LLC and Rutner on the first, second and third causes of action against 118 River Road, LLC and Rutner. The Court also awards Compact HVAC, Inc. reasonable attorneys' fees, and costs and disbursements. Compact HVAC, Inc. provides proof of its performance which was accepted by 118 River Road, LLC and Rutner without exception or complaint. Compact HVAC, Inc. proffers it demanded payment, but 118 River Road, LLC and Rutner failed to pay any part of the amount due, despite receipt of the statement of account which was retained without an objection. The parties written agreement contains an obligation by 118 River Road, LLC and Rutner to pay all costs, including reasonable attorneys' fees incurred by the plaintiff, and the plaintiff's attorney submits an affirmation dated February 22, 2017, which details the billing, hours involved and this rate is customarily charged in the legal community.

ORDERED that the motion is GRANTED directing the entry of a default judgment on

the first and second causes of action in the complaint for \$29,606.31 against 118 River Road, LLC and Mylar Rutner, and it is also,

ORDERED that the motion is GRANTED directing the entry of a default judgment on the third cause of action in the complaint with interest on all monies due computed at the rate of 18.5% per annum from July 28, 2016, against 118 River Road, LLC and Rutner, the managing member of 118 River Road, LLC, and it is also,

ORDERED that the motion is GRANTED Compact HVAC, Inc. awarding it reasonable attorneys' fees in the amount of \$4,870.00, and costs and disbursements, and it is further,

ORDERED that the Clerk is directed to enter judgment pursuant to CPLR 5016 upon submission of a proposed judgment which complies with the mandates of CPLR 5018.

This decision will constitute the order and judgment of the Court.

So ordered.

Dated: **April 28, 2017**

**ENTERED**  
MAY 11 2017  
NASSAU COUNTY  
COUNTY CLERK'S OFFICE

ENTER:



\_\_\_\_\_  
J. S. C.

FINAL DISPOSITION