



## Mccarty v. Mccarty

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Xia Lan Lin v CAMB Magnolia House ( 2024 NY Slip Op 50319(U))

[\*1] Xia Lan Lin v CAMB Magnolia House 2024 NY Slip Op 50319(U) Decided on March 25, 2024 Appellate Term, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and will not be published in the printed Official Reports.

Decided on March 25, 2024 SUPREME COURT, APPELLATE TERM, FIRST DEPARTMENT

PRESENT: Tisch, J.P., James, Perez, JJ.

570220/22

Xia Lan Lin, Plaintiff-Appellant, against CAMB Magnolia House, Defendant-Respondent.

Plaintiff appeals from a judgment of the Civil Court of the City of New York, New York County (Aija Tingling, J.), entered May 10, 2023, after inquest, in favor of the defendant dismissing this action.

Per Curiam.

Judgment (Aija Tingling, J.), entered May 10, 2023, affirmed, without costs.

Where, as here, the defendant has defaulted in appearing and an inquest is directed, it is still necessary for the plaintiff to present proof of damages at the inquest (see *Paulson v Kotsilimbis*, 124 AD2d 513, 514 [1986]; *Wine Antiques v St. Paul Fire & Mar. Ins. Co.*, 40 AD2d 657 [1972]).

In reviewing the record, we find that Civil Court properly dismissed the action after inquest, since plaintiff failed to establish a prima facie case for damages causally related to the acts of defendant.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

I concur I concur I concur Decision Date: March 25, 2024

