

Renwick, J.P., Manzanet-Daniels, Tom, Kahn, Gesmer, JJ.

8616 Norma Loren, Index 651052/15
Plaintiff-Appellant,

-against-

Joseph E. Sarachek, et al.,
Defendants-Respondents.

Law Office of Ethan A. Brecher, LLC, New York (Ethan A. Brecher
of counsel), for appellant.

Izower Feldman, LLC, New York (Dennis Villasana of counsel), for
respondents.

Order, Supreme Court, New York County (Charles E. Ramos,
J.), entered on or about July 10, 2018, which denied plaintiff's
motion for summary judgment, unanimously reversed, on the law,
with costs, and the motion granted. The Clerk is directed to
enter judgment accordingly.

The provisions of the note which required defendant Triax
Capital Advisors, LLC (Triax) to make monthly interest payments
to plaintiff, and the terms of the individual defendant's
personal guarantee of payment were clear and unambiguous (see
*Banco Espírito Santo, S.A. v Concessionária Do Rodoanel Oeste
S.A.*, 100 AD3d 100, 106 [1st Dept 2012]). Moreover, the note
unambiguously provided that in the event of a default, which
occurred, and upon notice from plaintiff, which was provided,
Triax was required to repay the entire balance of the principal

plus interest accrued within 90 days (*id.*).

Plaintiff's failure to demand interest payments between the due date and the date of declaring a default did not constitute a waiver of plaintiff's right to declare a default (see *EchoStar Satellite L.L.C. v ESPN, Inc.*, 79 AD3d 614, 617-18 [1st Dept 2010]).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: MARCH 7, 2019

A handwritten signature in black ink, appearing to read "Susan R. [unclear]", written over a horizontal line.

CLERK